

OFFICE OF THE  
AUDITOR GENERAL  
MANITOBA

Version

January 2012

Follow-up of  
Previously Issued Recommendations

## Vision

That the Office of the Auditor General is an accessible, transparent and independent audit office, serving the Manitoba Legislature with the highest standard of professional excellence.

## Mission

To contribute to effective governance by the Manitoba Legislature, we provide the Members of the Legislative Assembly with independent assurance and advice on:

- government accountability information
- compliance with legislative authorities
- the operational performance of government

## Values

### In interpersonal relationships

Respect  
Integrity  
Honesty  
Openness

### In achieving our vision

Teamwork  
Independence  
Professional excellence  
Balanced perspectives



January 2012

The Honourable Daryl Reid  
Speaker of the House  
Room 244, Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

Dear Sir:

I have the honour to transmit herewith my report titled, *Follow-up of Previously Issued Recommendations*, to be laid before Members of the Legislative Assembly in accordance with the provisions of Section 28 of The Auditor General Act.

Respectfully submitted,

Original document signed by  
Carol Bellringer

Carol Bellringer, FCA, MBA  
Auditor General

Web Version





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## Overview by the Auditor General

For the last several years, we have issued an annual follow-up report of previously issued recommendations. We request a status update from management, and then conduct review procedures to assess the plausibility of the statuses provided. While we do not re-perform audit procedures, we obtain supporting documentation to verify that our concerns have been addressed before agreeing that a recommendation has been "implemented/resolved".

In the past, we waited for 3 years after the issuance of an audit report before requesting the status update. We then continued to obtain a status update for an audit report until such time as every recommendation was implemented. This year, we decided that the progress made to address our recommendations and the scrutiny of our reports by the Public Accounts Committee (PAC) warranted a change in our approach. As a result, we have requested status updates for all reports issued prior to June 30, 2011 rather than waiting 3 years. And, we are no longer providing updates for those recommendations listed in last year's follow-up report.

A status update for our report titled *Child and Family Services Division Pre-Devolution Child in Care Processes and Practices* issued in December 2006 has not been included in this report. Significant changes to the organizational structures and complexity of the issues warrant a different approach. We will be completing a thorough follow-up of that report in the upcoming months. We will issue an update which will include details about the changes to the system and how our recommendations are being addressed post-devolution. The update will be released to the Legislature as soon as it is complete, which will make it available to the *Commission of Inquiry into the Circumstances Surrounding the Death of Phoenix Sinclair* which has been mandated to consider our 2006 report.

Last year, our follow-up report covered 20 reports. Those recommendations had been made in reports issued from 1997 through 2007. Of the 20 reports, 13 were over 5 years old and they contained over 55% of the recommendations that were not yet implemented. Four reports were considered cleared and the remaining 3 more recent audits indicated that significant progress had been made but work remained to fully address our recommendations. In our view, ample time has passed to implement all recommendations made since the issuance of the original audit reports.

PAC has not yet had the opportunity to address last year's follow-up report. PAC is an all party Standing Committee of the Legislature, chaired by a member of the official opposition and vice-chaired by a member of the governing party. PAC's primary role is to examine the financial administration of public assets and spending of public funds. All of our reports are referred to PAC. When PAC meets to discuss last year's follow-up report, we will urge them to request action plans from those organizations where recommendations have not been fully implemented.

This year, our follow-up report covers 17 reports which had not previously been followed up by our Office. In all cases, we have concurred with the status updates included in this report. Of the 249 total recommendations in these reports, 106 have been implemented/resolved, 14 no longer require the recommended action, there is no intention to implement 6 recommendations and 123 remain in progress. We consider this to be satisfactory progress towards implementing our recommendations.

**Follow-up process**

**Web Version**



## Follow-up process

As part of the follow-up process, we ask management to provide us with a progress report on the status of each of the recommendations addressed to them. As well, we request that the progress report include details of the actions taken and planned to address the recommendation. We review managements' comments and perform procedures to ensure progress was fairly stated.

Each of the recommendations in our report has been classified into 1 of the 4 following categories to reflect the status as at June 30, 2011:

***Implemented/Resolved***

The recommendation has been implemented as issued or an alternate solution has been implemented that fully addresses the risk identified in the initial recommendation.

***Action No Longer Required***

The recommendation is no longer relevant due to changes in circumstances.

***Do Not Intend To Implement***

Management does not intend to implement our recommendation as issued or fully address the risk identified in our initial recommendation.

***Work In Progress***

Management is in the process of taking steps to implement our recommendation.

## Nature of a review

In a review, we provide a moderate level of assurance by limiting procedures to enquiry, document review and discussion, so that the risk of an inappropriate conclusion is reduced to a moderate level and the evidence obtained enables us to conclude the matter is plausible in the circumstances.

A review is distinguishable from an audit in that it provides a moderate rather than a high level of assurance. In our audits, we provide a high, though not absolute, level of assurance by designing procedures so that the risk of an inappropriate conclusion is reduced to a low level. These procedures include inspection, observation, enquiry, confirmation, analysis and discussion. Use of the term "high level of assurance" refers to the highest reasonable level of assurance auditors provide on a subject. Absolute assurance is not attainable since an audit involves such factors as the use of judgment, the use of testing, the inherent limitations of control and the fact that much of the evidence available to us is persuasive rather than conclusive.



## Follow-up Process

### Review comments

Our review was made in accordance with Canadian generally accepted standards for review engagements, and accordingly consisted primarily of enquiry, review and discussion of the information supplied by management.

A review does not constitute an audit and consequently we do not express an opinion on these matters.

Based on our review, nothing has come to our attention to cause us to believe that the representations do not present fairly, in all significant respects, the progress made in implementing the recommendations contained in the respective reports.



## Summary of follow-up reviews



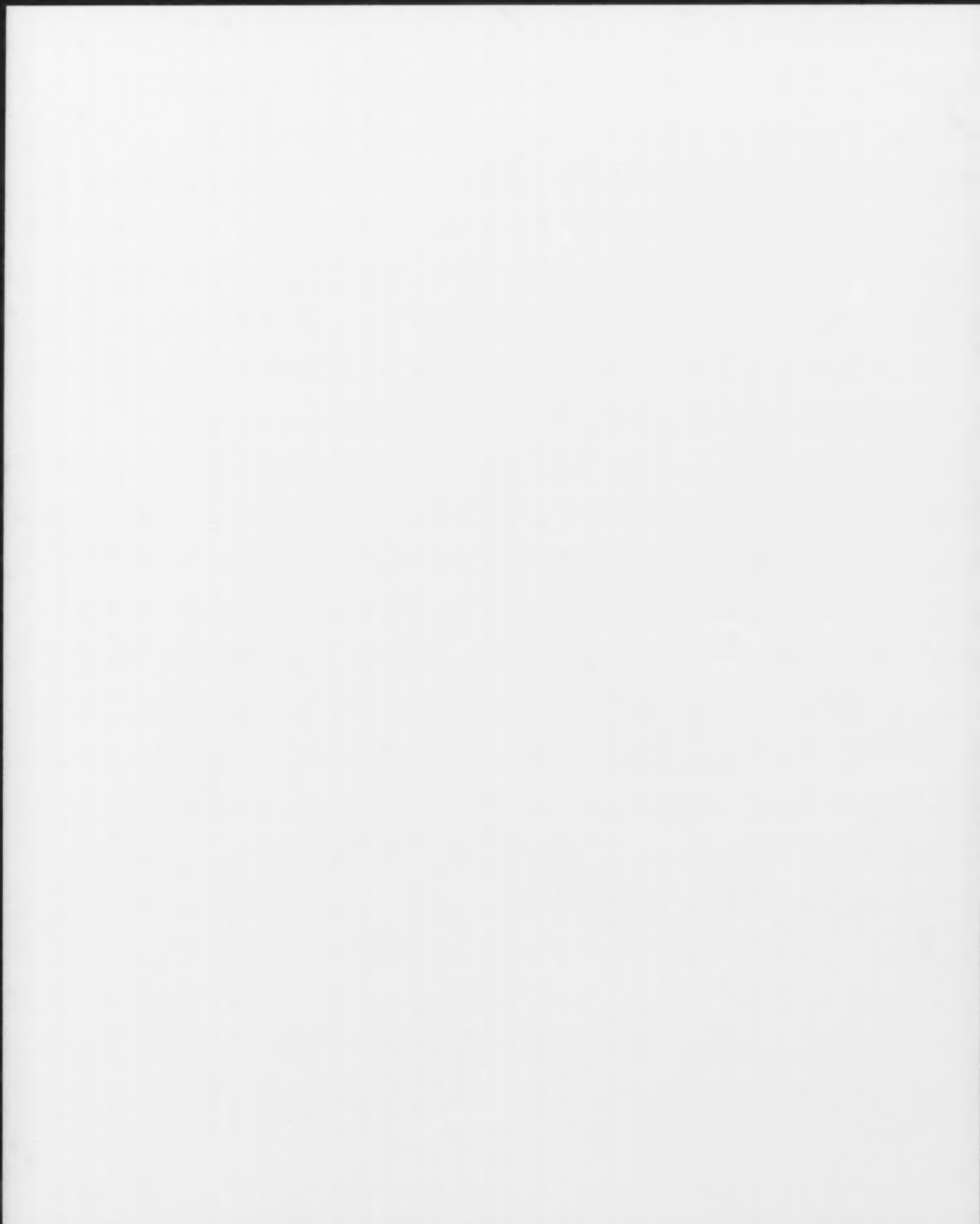
# Summary of Follow-up Reviews

## Summary of follow-up reviews

Audit Report		Date Issued	Total Recommendations	Recommendations Considered Cleared			Work In Progress
				Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
ABORIGINAL AND NORTHERN AFFAIRS							
1.0	Meeting Manitoba's Obligation Under the 1997 Treaty Land Entitlement Framework Agreement	November 2009	7	3			4
CONSERVATION							
2.0	Audit of the Department of Conservation's Management of Environmental Livestock Program	October 2007	40	25	1	2	12
CONSERVATION; FINANCE; LOCAL GOVERNMENT							
3.0	Audit of the Province's Management of Contaminated Sites and Landfills	October 2007	60	17		1	42
CULTURE, HERITAGE AND TOURISM; FINANCE							
4.0	Special Audit: Image Campaign for the Province of Manitoba	October 2007	5	3	2		
EDUCATION							
5.0	Special Audit: Property Transactions in the Seven Oaks School Division	August 2007	4	4			
FAMILY SERVICES AND CONSUMER AFFAIRS							
6.0	Employment and Income Assistance Program	December 2008	14	2		1	11
FINANCE							
7.0	The Use of Derivative Financial Instruments in the Province of Manitoba	December 2006	19	19			
8.0	Audit of Mandatory Legislative Reviews	December 2007	3			1	2
9.0	Public Sector Compensation Disclosure Reporting	December 2009	3				3
HEALTH							
10.0	Monitoring Compliance with The Ambulance Services Act	December 2008	3	3			
11.0	Pharmacare Program – Part 2	December 2008	12	2	2		8
12.0	Personal Care Homes Program	November 2009	16	9			7
13.0	Winnipeg Regional Health Authority – Administration of the Value-Added Policy	May 2010	8		5		3
INNOVATION, ENERGY AND MINES							
14.0	Compliance with Oil and Gas Legislation	December 2008	8	4			4
LEGISLATIVE ASSEMBLY							
15.0	Members' Allowances Program	November 2009	3	3			
LOCAL GOVERNMENT							
16.0	Special Audit: Rural Municipality of La Broquerie	March 2008	35	9	4	1	21
17.0	Assessment Services Branch	November 2009	9	3			6
Total Follow-up Reviews			249	106	14	6	123



## Aboriginal and Northern Affairs



# 1. Meeting Manitoba's Obligations Under the 1997 Treaty Land Entitlement Framework Agreement

## Summary from November 2009 audit report

The Government of Manitoba (Manitoba) is a signatory to the Treaty Land Entitlement (TLE) Framework Agreement, which sets out the principles for the selection and acquisition of over one million acres of land in Manitoba to be set apart as reserve for First Nations in order to satisfy outstanding treaty land obligations. Successful implementation of the Agreement, measured by the transfer of land to Canada to be set apart as reserve for First Nations, is highly dependent upon the working relationships established amongst the parties to the Agreement (the Treaty Land Entitlement Committee of Manitoba Inc. representing 21 First Nations, the Governments of Canada and Manitoba) and requires the ongoing commitment and cooperation of all parties to succeed.

Our audit was limited to the systems and practices developed by Manitoba to fulfill its obligations under the Framework Agreement. While it was difficult to separate the various administrative activities for each of the individual parties, we focused on Manitoba's identification of issues to be resolved on land selections and the resolution of these issues. In support of this, we reviewed Manitoba's data collection and file management, as well as internal coordination amongst the Provincial departments and agencies involved. We also reviewed Manitoba's role in communicating progress externally – to other parties to the Agreement and publicly.

We found that some significant progress had been made in meeting TLE commitments. As at August 20, 2008, Manitoba had transferred land to Canada or issued Crown land use permits for 61% (472,598 acres) of the 770,805 acres of Crown land that had been selected under the Framework Agreement by First Nations. This was comprised of:

- 203,249 acres that had been transferred to Canada and set apart as reserve
- 133,507 acres that had been transferred to Canada and subsequently found to have issues relating to unauthorized structures requiring resolution before conversion to reserve status could occur
- 135,842 acres that required surveying by Canada and review of the survey results by the Manitoba Director of Surveys before transfer to Canada could occur.

The Crown land use permits provide the First Nations with exclusive use of the land, subject to the agreed upon accommodation of third party and other interests, although they do not allow for the fuller use of the land that may occur once it has been set apart as reserve by Canada.

Although the issuance of a Crown land use permit for selected Crown land is an important milestone, the final desired outcome is the setting apart of the land as reserve. As at August 20, 2008, a total of 18.5% of the total 1,100,626 acres set out in the 1997 Framework Agreement had been converted to reserve status. This reflected 18% (68 parcels) of the 380 parcels that had been selected by First Nations as of this date.

A federal commitment to transfer 150,000 acres per year to reserve status (under all Manitoba TLE agreements, including but not limited to the 1997 Framework Agreement) was made in August 2006 and supported by Manitoba.

This commitment was met for the year ended August 20, 2007, although it was not met for the year ended August 20, 2008. While Manitoba had transferred sufficient acres to Canada for that time period (i.e., 162,285 acres), several of these parcels of land were not set apart as reserve by Canada because issues related to unauthorized structures on the land had not been successfully resolved by the parties to the Agreement.

In reviewing the progress made to date, it was noted that:

- Manitoba was identifying most issues to be resolved on land selections on a timely basis
- The Department of Conservation had developed a comprehensive database (known as TRELES) to track individual parcel selections, the issues related to each parcel selection, and the dates these issues were identified and resolved
- ANA had communicated Framework Agreement goals and responsibilities to Provincial departments and was coordinating Manitoba's implementation efforts
- There was periodic communication with First Nations regarding the status of parcel selections (e.g., correspondence relating to parcel review meetings)
- In concert with the other parties to the Framework Agreement, Manitoba was working towards the development of a documented long term action plan for completing the Framework Agreement
- Progress in terms of the number of acres of land transferred to Canada by Manitoba and the number of acres of land set apart as reserve was tracked and periodically publicly reported.

At the same time, some considerable challenges remain. Several of the parcels selected to date have significant outstanding issues still requiring resolution. In addition, many parts of the Framework Agreement set out general principles, as opposed to specific rules, leading to sometimes conflicting views between the parties to the Agreement that require on-going discussions in order to reach resolution.

The pace of on-going discussions concerning identified issues is affected by the strength of the management frameworks supporting the parties to the Agreement, as well as a variety of other factors. These other factors include elections and staffing changes at the federal, provincial and First Nations levels, as well as the changing economic, political and legal environments in which discussions are conducted. Some issues remain unresolved even



after several years of on-going discussion and attempts to find solutions that will satisfy the concerns of all parties to the Agreement.

Although there are individual roles assigned to each party to the Framework Agreement, they are all interdependent. Therefore, implementation of the Agreement is highly dependent upon the working relationships established amongst the parties and requires the on-going commitment and cooperation of all parties to succeed.

Manitoba could build upon its accomplishments to date and further enhance its future ability to meet its Framework Agreement obligations and related commitments if it were to:

- Work with the other parties to the Agreement to develop processes to identify and facilitate a resolution to unauthorized structures in a more timely manner
- Increase ANA's on-going communication and coordination with other Provincial government departments
- Further enhance communication with First Nations by communicating on a more regular basis regarding the current status of all parcel selections, including the status of outstanding issues requiring resolution
- Enhance file management and documentation so as to provide a more easily accessible and complete record of activities conducted to identify and resolve Framework Agreement issues and concerns on individual land selections
- Further develop and document action plans for completing the Agreement
- Communicate to departments a clear process for considering options and developing the views to be adopted during the course of on-going discussions concerning implementation of the Framework Agreement
- Supplement progress reporting on implementing the Agreement to include information on the number of parcel selections transferred and the significant issues resolved, in addition to the current reporting on the number of acres for which Crown land use permits have been issued, acres transferred to Canada, and acres set apart as reserve.

### Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
7	3			4

## Aboriginal and Northern Affairs

### Implemented/Resolved

We recommended that:

1. ANA and Conservation work together with the other parties to the Agreement to develop processes to identify and facilitate a resolution to unauthorized structures in a timely manner.
2. ANA strengthen its communication and coordination with other government departments with TLE responsibilities. This should include:
  - On-going orientation of departmental personnel with TLE responsibilities to the historical background and significance of treaty land entitlement and the requirements of the Framework Agreement
  - Regular meetings and updates between ANA and other departments with TLE responsibilities concerning Framework Agreement priorities, issues, and action plans
  - Clarification of the respective roles and responsibilities of ANA and other government departments.
3. ANA work with TLEC to communicate on a regular periodic basis with each First Nation with respect to parcel selections received, the current status of those parcel selections, and actions completed and in progress to address issues arising from the parcel selections.

### Work In Progress

We recommended that:

4. ANA improve its file management and documentation for the 1997 TLE Framework Agreement. File documentation should be easily accessible for all parcel selections and departments should forward to a central registry a complete record of the meetings and discussions held to identify issues and concerns, examine alternatives, and facilitate resolution of identified issues and concerns.
5. In conjunction with the other parties to the Framework Agreement, ANA develop and document annual and multi-year action plans to guide implementation of the 1997 Framework Agreement.
6. ANA, in conjunction with other departments, implement a clear process for considering options and developing Manitoba's view on major issues requiring on-going discussion.
7. ANA further develop its internal and public reporting of progress in implementing the 1997 Framework Agreement.

## Conservation



## 2. Audit of the Department of Conservation's Management of the Environmental Livestock Program

### Summary from October 2007 audit report

Livestock farms raise thousands of animals and generate enormous quantities of manure. Livestock manure must be managed properly to protect Manitoba's rivers, lakes, streams, and groundwater.

One of the methods that the Province uses to reduce the risk of environmental damage from livestock manure is through the *Livestock Manure and Mortalities Management Regulation* (42/98) (Regulation) under *The Environment Act*. Responsibility for administration of the Regulation is assigned to the Department of Conservation (Conservation).

The purpose of our audit was to evaluate Conservation's operational efforts to protect surface and groundwater from potential contamination caused by livestock operations.

Specifically, our objectives were:

1. To determine whether the Regulation was generally comparable to legislation in other Canadian jurisdictions
2. To determine whether Conservation had adequate processes in place to ensure operators of livestock operations (operators) comply with the key provisions of the Regulation
3. To determine whether Conservation used information available to further its efforts to protect surface and groundwater from contamination
4. To determine whether Conservation was sufficiently consulting with the Departments of Agriculture, Food and Rural Initiatives, Health, Intergovernmental Affairs, and Water Stewardship, as well as municipalities, on common issues related to water quality.

Section 3.0 of our report concluded that legislation in the Province of Manitoba to ensure the protection of the environment from the potential harmful effects of livestock manure and mortalities was more comprehensive and proactive than in some other provinces. There were some areas that were not addressed in Manitoba's Regulation and some that were addressed more stringently in other jurisdictions. These areas included:

- Controls related to the application of manure by operations with multiple species
- Minimum acceptable storage capacity for manure storage facility constructions

- Controls to address the effects of chemical fertilizers combined with manure application
- The submission of contingency plans to deal with potential emergencies related to livestock manure
- Controls related to the application of manure on frozen or snow-covered ground.

Section 4.0 of our report concluded that a number of processes were in place to address provisions of the Regulation. However, we found several processes requiring attention:

- Issuing permits for construction, modification and expansion of manure storage facilities
- Monitoring of construction of manure storage facilities
- Post-construction monitoring
- Identification, assessment and approval of non-permitted manure storage facilities
- Monitoring of manure application to land
- Utilization of the Department's information system.

Section 5.0 concluded that significant data was available from various elements of the Environmental Livestock Program. Conservation did not use this information to the extent they should have to further efforts in protecting surface and groundwater from contamination.

Section 6.0 concluded that Conservation had limited consultation with other government departments and municipalities on common issues related to water quality.

### Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
40	25	1	2	12



## Implemented/Resolved

We recommended that:

1. The Department consider the following potential amendments to the Regulation:

- Preventing over-application of manure by operations with multiple species
- Incorporating a minimum acceptable manure storage capacity for manure storage facility constructions. The minimum capacity should be set at a level which will avoid the need to "dispose" of manure during winter months
- Incorporating controls to address the effects of chemical fertilizers combined with manure application on soil nutrient levels
- Requiring the submission of contingency plans to deal with potential emergencies related to livestock manure
- Limiting the spreading of manure on frozen or snow-covered ground for all livestock operations.

*OAG Comment: The Department does not intend to amend the regulations as expected to prevent the over application of manure by operations with multiple species.*

2. No permits be issued without proper documentation and review as required by the Regulation.
3. The review of all permit applications be sufficiently documented.
4. The application be signed off upon completion of the review to signify that all requirements of the application review process have been met.
5. Conservation ensure that application has been made for pertinent licenses and permits related to water by communicating with the Department of Water Stewardship.
7. Conservation provide representation at all municipal Conditional Use Hearings for proposed livestock operations that involve manure storage facilities.
8. Documented municipal approval be obtained for all permit applications before permits are issued. Approval should be in writing, included as a permanent record in the paper file, and noted as being received in the central information management system.
10. Significant amendments to design plans for manure storage facilities and the subsequent construction be communicated to the respective rural municipality.

We recommended that:

12. Applicants be required to formalize their acceptance of conditions outlined in permits for manure storage facilities by signing the permit.
  13. Interim and final inspection results be provided in documented form to the operator or an appropriate representative, and that this documentation be signed by the operator or representative, as well as by the inspector.
  15. Conservation ensure soil density test results are received when required, and that the results of these tests be taken into consideration when assessing compliance with the Regulation.
  16. Where conditional certification has been provided, Conservation should flag the file for follow-up until unconditional certification is received. Unconditional certification should be obtained prior to issuing approval for use of the manure storage facility.
  17. An appropriate risk-based strategy be implemented provincially for conducting inspections of manure storage facilities.
  19. A process be implemented to ensure that all issues identified during periodic inspections are followed up until resolved.
  20. Operators be provided with a written copy of inspection results and that this documentation be signed by the operator as well as by the inspector.
  23. Resources in the Department of Conservation be assessed for its adequacy.
  24. Conservation assess all manure management plans to ensure that the environment is protected.
  25. Conservation clearly communicate acceptance of manure management plans once they have been assessed as satisfactory and in harmony with the intent of the Regulation. Conservation should follow-up on incomplete or unacceptable plans until they can be approved. Conservation should make it clear to operators that they cannot spread manure until manure management plans have been approved.
-



## Implemented/Resolved (cont'd)

We recommended that:

26. Conservation review all manure management plans submitted by operators, whether they are required by the Regulation to submit a plan or not. The data for these operations should also be stored in Conservation's central information management system.
27. Conservation use all available information to reduce the risk that operations are not in compliance with the requirement to submit manure management plans.
28. Conservation develop a strategy to deal with changes in Legislation before they are enacted. For example, changes could include those related to the submission of manure management plans as discussed in this section as well as changes with respect to the registration of manure storage facilities as discussed in Section 4.4.
29. Conservation follow-up on manure application and the submission of confirmation of spreading by operators.
30. All information received, including confirmation of spreading, be input in Conservation's central information system to ensure accurate data is available.
31. Conservation, where it is practical to do so, expand its audit process to monitor other sections of the Regulation, including compliance with manure storage facility maintenance and mortalities management requirements.
34. Conservation implement a risk-based strategy for the monitoring of manure application to land by ensuring that all problems identified in manure application audits are followed-up.

## Action No Longer Required

We recommended that:

9. Adherence to established policies related to Technical Reviews be ensured. If Conservation questions the necessity of a Technical Review, it should seek written approval from the rural municipality involved to have the requirement waived.

## Conservation

### Do Not Intend To Implement

We recommended that:

6. All proposed sites for manure storage facilities be inspected prior to issuing a permit.

*OAG Comment: An inspection aspect has been included in the permit process, however, it is not required for all permits. A risk based strategy is used to determine which sites will be inspected prior to issuing a permit.*

14. Final inspections of all manure storage facilities be conducted after construction is finished and upon receipt of the final certification by the Professional Engineer and all required reports. The final inspection should include both a visual site inspection and a thorough review of the permit file.

### Work In Progress

We recommended that:

11. There be a more cooperative and coordinated approach in dealing with manure storage facility constructions, taking into consideration the conditions imposed by Municipalities on operations and incorporating those conditions in permits where possible. If Conservation considers the conditions of a municipality to be ineffective or inappropriate, discussions should be initiated with the Municipality to ensure that reasonable conditions are included in Conditional Use Orders.
18. The inspection process, where it is practical to do so, be expanded to monitor compliance with all aspects of the Regulation and with municipal conditions and that non-compliance with municipal conditions be reported to the respective rural municipality.
21. Conservation establish a process to identify operations with non-permitted manure storage facilities.
22. A strategy and action plan be developed and implemented to address amendments to the Regulation related to the assessment and approval of non-permitted manure storage facilities. This strategy should take into consideration the deadline imposed by the Regulation for the registration of all manure storage facilities.
32. Conservation interact with the Department of Water Stewardship in its manure management audit process to ensure that the effect of manure application on nearby water sources is monitored.

## Work In Progress (cont'd)

We recommended that:

33. Conservation communicate the results of all audits of manure application to the operations it has audited. Conservation should clearly indicate whether the operations were found to be in compliance with the Regulation or not. Any operations identified as having nitrate levels in excess of what the Regulation allows should result in appropriate enforcement action.
  35. Conservation track all pertinent data related to the Regulation in its official tracking system, EMS.
  36. Conservation modify the EMS program to properly track the follow-up of enforcement actions.
  37. Conservation modify the EMS program to incorporate animal unit numbers for operations.
  38. Conservation develop and use a consistent method to identify all operations.
  39. Conservation conduct a comprehensive analysis of the livestock program's data to aid in the development of a strategic direction for the program.
  40. Conservation consult with other departments and municipalities to identify issues of common interest in sustaining the agricultural economy while at the same time protecting the environment.
-



**Conservation; Finance;  
Local Government**



### 3. Audit of the Province's Management of Contaminated Sites and Landfills

#### Summary from October 2007 audit report

In November of 2005 the Office of the Auditor General (OAG) released a report entitled, *Review of the Province of Manitoba's Management of Contaminated Sites*. That review was initiated in response to evolving changes to government financial reporting standards. By March 31, 2006, all provinces and Canada were required under the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA) to report and/or disclose in its financial statements (the Public Accounts) its environmental liabilities. The review focused on the processes in place for the Province to accurately identify and, where required, estimate the cost of environmental remediation for provincially owned contaminated sites under their responsibility, that is sites owned by provincial departments and Special Operating Agencies (SOAs). Our initial review excluded the management of contaminated sites owned and operated by Crown organizations, Government business enterprises, school divisions and municipalities.

In this report, we conducted an in-depth audit of the management of contaminated sites for those entities in the Government Reporting Entity (GRE) and in municipalities. Although municipalities are not included in the GRE, *The Municipal Act* of the Province of Manitoba requires them to comply with Public Sector Accounting (PSA) standards. Appendix C of the report includes a listing of entities included in the GRE.

The objectives of our audit were as follows:

1. To determine whether the processes of agencies, boards, crown organizations, school divisions, universities, colleges and hospitals (entities) , and municipalities for the identification of contaminated land sites and for the estimation of costs associated with remediation of these sites were sufficient to ensure appropriate accounting information was available to account for and report environmental liabilities in their financial statements.
2. To determine whether the Department of Conservation (Conservation) had adequate monitoring procedures to ensure compliance by government entities, municipalities and industry with:
  - *The Contaminated Sites Remediation Act (CSRA)*
  - *The Storage and Handling of Petroleum Products and Allied Products Regulation (Petroleum Products Regulation) of The Dangerous Goods Handling and Transportation Act (DGHTA).*



3. To determine whether the Department of Conservation was adequately licensing, permitting and monitoring landfills to ensure compliance by landfill owners and operators with:
  - *The Environment Act*
  - *The Waste Disposal Grounds Regulation* (WDG Regulation) of *The Environment Act*.
4. To determine whether Department of Finance (Finance) processes for the compilation of costs associated with remediation of contaminated sites owned by entities were adequate to ensure completeness of estimates of the Province's potential liability for appropriate reporting in the Public Accounts.
5. To determine whether the Province and the municipalities were reporting their potential environmental liabilities associated with landfills.

Some of the key conclusions of our audit were:

- Policies and procedures for the management of contaminated sites among government entities and municipalities, especially those with properties that had been exposed to contaminants, were not sufficient.
  - for the majority of entities and municipalities that had contaminated sites, policies and procedures were not in place to guide the management of those sites
  - the majority of entities and municipalities with contaminated sites were not preparing financial statements in accordance with PSA standards.
- Conservation's monitoring procedures to ensure compliance by entities, municipalities and industry were not sufficient.
  - Conservation did not classify and summarize contaminated sites according to risk
  - Conservation did not adequately monitor all identified contaminated sites.
- Conservation's procedures for the management of landfills did not ensure compliance by landfill owners and operators with legislation.
  - legislation did not adequately address the risks, liabilities and due diligence associated with landfills
  - policy and procedures to guide the management of landfills were not sufficient to ensure protection of the environment
  - the requirement to license landfills was not consistent for landfills of similar risk. Specifically, the Brady Road landfill operated by the City of Winnipeg, by far the largest landfill in the Province, was operating under a permit dated October 1993. Other landfills serving a population of over 5,000 operated under the authority of more stringent environmental licenses
  - Conservation's monitoring of landfills was inadequate.



- Department of Finance processes for the compilation of costs associated with remediation of contaminated sites owned by government entities were sufficient to ensure completeness of estimates of the Province's potential liability for appropriate reflection in the Public Accounts.
- The Province had developed an environmental liabilities accounting policy prior to our audit. Although we found that this policy had not been communicated to Government departments and to the remainder of the GRE in a timely manner, procedures to work toward the complete and accurate reporting and disclosure of environmental liabilities in the 2005/2006 fiscal year and beyond were in place at the time we completed our fieldwork in June of 2006.
- While *The Municipal Act* required municipalities to comply with PSA standards, municipalities were not consistently reporting potential environmental liabilities associated with landfills in their financial statements. The majority of municipalities did not report and or disclose liabilities for landfill closure and post-closure costs.

### Status of recommendations as at June 30, 2011

The October 2007 report included 77 recommendations. Of those, 17 were directed to those directly responsible for the site. These included municipalities or other government entities. No Provincial department has monitored the implementation of these recommendations. Because the municipalities and other government entities are created under Provincial legislation, it is our position that the Province should have a complete understanding of the progress that has been made.

**Recommendation:** We recommend that the Province assign responsibility for monitoring the implementation of the following recommendations previously included in our October 2007 report on *The Province's Management of Contaminated Sites and Landfills*:

1. We recommend that all entities and municipalities with contaminated sites assign personnel to be responsible for addressing contaminated sites issues.
2. We recommend that the following responsibilities be assigned within entities and municipalities:
  - Identification and risk assessment of contaminated sites
  - Development of remediation plans
  - Monitoring of contaminated sites
  - Database management
  - Quantification of environmental liabilities for financial reporting.
3. We recommend that government entities and municipalities that have had experience with property contamination develop and implement a documented strategy for the management of contaminated sites.

4. We recommend that all entities and municipalities develop and implement a documented environmental liabilities accounting policy.
5. We recommend that all entities and municipalities with properties that have been exposed to contaminants maintain a complete list of these sites.
6. We recommend that Environmental Site Assessments be conducted by qualified professionals on all properties that have been exposed to contaminants.
7. We recommend that priorities for remediation be established based on Environmental Site Assessments.
8. We recommend that all entities and municipalities develop a protocol that will ensure that all sites that have been exposed to contaminants be reported to Conservation as they are identified.
9. We recommend that remediation plans be developed for all sites that meet the NCS criteria for Class 1 or Class 2 sites.
10. We recommend that entities and municipalities establish a remediation strategy that focuses on remediating sites based on risk.
11. We recommend that all Class 1 and Class 2 sites be remediated as funding permits.
12. We recommend that entities and municipalities inform Conservation of new developments related to contaminated sites and that all ESAs and RAPs for these sites be submitted to Conservation for review. Remediation plans should be approved by Conservation prior to implementation.
13. We recommend that all properties be assessed on a regular basis for changes in status.
14. We recommend that all entities and municipalities with properties that have been exposed to contaminants maintain a database of their properties to track those sites. The database could include:
  - Site classification
  - Remediation plan data
  - Remediation cost estimates
  - Remediation related activities
  - Site monitoring activities.
15. We recommend that the database be updated as changes to sites occur.
16. We recommend that ESAs and RAPs be used as a basis for determining cost estimates for environmental liabilities.
17. We recommend that all entities and municipalities follow PSA standards for reporting and disclosing contaminated sites in their financial statements.

**Response of Officials:** Municipalities are created under Provincial legislation but are a separate level of government responsible for the administration of their jurisdiction. This includes complying with all Federal and Provincial

statutes and regulations for the protection of the environment and the management and remediation of their contaminated sites. Municipalities are responsible for remediation of contaminated municipal properties or sites which they are directly responsible for contaminating. Failure to comply with Federal and Provincial legislation is legally enforceable through prosecution, fines, penalties or administrative proceedings.

Effective January 1, 2009 municipalities have adopted the accounting recommendations under the *Public Sector Accounting Handbook*, including the recommendations for the reporting of liabilities for contaminated sites which applies to fiscal years beginning on or after April 1, 2014. Municipalities will be required to recognize a liability for contaminated sites in accordance with the *Public Sector Handbook*.

The Departments of Conservation, Local Government and Finance will assess the situation at municipalities and determine what can be done to assist municipalities in implementing the recommendations of the Auditor General for the management of their contaminated sites and the reporting of the liability under Public Sector Accounting recommendations.

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
60	17		1	42

#### Implemented/Resolved

We recommended that:

18. Conservation focus on completing their review of the *Standard Operating Procedures* and formally approve a revised document for use as soon as possible. Until the document has been approved, it cannot be considered the official document for use by program staff.

21. Conservation record classifications for all contaminated sites.

*OAG Comment: The Department does not intend to go back to sites that were already listed in the system and ensure that they all have an NCS classification identified.*

22. Conservation use reported classifications as a tool to support risk assessment.

25. As part of its communication strategy, Conservation promote the use of the NCS to those responsible for contamination of land sites.

Implemented/Resolved (cont'd)

We recommended that:

26. Conservation establish and record responsibility for all contaminated and potentially contaminated sites as they become aware of these sites.
27. Conservation obtain RAPs for all sites requiring remediation. These plans should be assessed on a timely basis by Conservation and owners or representatives should be informed in writing of Conservation's approval. Alternatively, if changes to the RAPs are required, Conservation should notify the owner or representative in writing of the required changes.
28. Conservation ensure that all technical reports received for contaminated sites are reviewed and, when warranted, responded to in a timely manner.
29. Conservation ensure that remediation is carried out according to approved RAPs.
30. Conservation ensure that files for contaminated sites are complete and that all activity related to each site is noted in the files, both in the hard copy file as well as the electronic file.
32. Conservation review, analyze and respond to all reports submitted to them in a timely manner.
37. Conservation ensure that information in the database is complete and accurate.
38. High risk contaminated sites be clearly identified for early remedial attention.
40. All monitoring data be input in the contaminated sites database.
41. All information updates, including the tracking of technical reports received from operators or consultants, be input in the contaminated sites database.
42. Conservation communicate policy and standard definitions to aid in explaining and understanding contaminated site risks as well as remediation management.
73. The Province ensure that communication of financial reporting requirements be improved. Attention should be given to providing information to entities in a timelier manner.
74. The Department of Intergovernmental Affairs clearly communicate to municipalities the requirement to report environmental liabilities including landfills in audited financial statements.

### Do Not Intend to Implement

We recommended that:

36. Conservation ensure that the program database can accommodate site classifications in such a way that the information can be used for tracking and reporting purposes.

### Work In Progress

We recommended that:

19. Conservation improve communication with regional program staff to ensure all understand the procedures to be followed.
20. Conservation require that environmental assessments for all contaminated sites specify the classification of those sites based on the NCS or a similar specified classification system.
23. Policy related to database management be established to ensure that effective tracking of contaminated sites is possible.
24. Conservation update its website to ensure current and meaningful information on contaminated sites is available to the public. The site should provide clear direction for the public regarding their obligations in the event that they are responsible for a contaminated site, including Conservation's requirements before, during and after remediation.
31. Conservation ensure that all information requested is obtained in a timely manner.
33. Conservation follow-up on information not received as requested.
34. Conservation ensure that its central database of contaminated sites, EMS, is current.
35. Conservation use the EMS database as its primary source to track data.
39. Conservation ensure that the database is structured in a way that will ensure effective and efficient tracking of remediation plans.



Work In Progress (cont'd)

We recommended that:

43. *The Waste Disposal Grounds Regulation* be reviewed and that consideration be given to including requirements for:
    - Licenses and permits for the operation of landfills expire after a stated period of time
    - Renewal of licenses and permits for the operation of landfills require a formal application on the part of the permit holder
    - Monitoring and reporting requirements during operation
    - Periodic review and amendment to the Regulation as needed
    - When the Regulation is amended, a phase-in process to ensure that all operators in each class of landfills are subjected to the same regulatory authority
    - Specific requirements for monitoring of closed landfills.
  44. The Land Titles Office be notified of all properties that have been or are being used as landfills.
  45. Conservation review and update existing policy documents for the licensing of landfills in Manitoba.
  46. Conservation develop and formally approve policy and procedures for the permitting of landfills in Manitoba. The Draft document entitled, *Guidelines for the Siting of a Class 2 and Class 3 Waste Disposal Ground in Manitoba*, should be used as a starting point for the establishment of policy.
  47. Conservation require consistent application of policy for the permitting of landfills in Manitoba throughout the Province.
  48. Conservation establish policy to rank landfills based on thorough risk assessments.
  49. Conservation policy require the submission of preliminary closure and post-closure plans for all landfills, both permitted and licensed. These plans should be submitted within a specific timeframe following the issuance of the permit or licence.
  50. Monitoring procedures or standards be established provincially.
-

Work In Progress (cont'd)

We recommended that:

51. Policy be developed and approved to require the input of all landfills in EMS including both active and inactive sites.

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  52. Policy be developed and approved to require the input of:
    - All reports received
    - An indication as to whether or not those reports have been approved
    - All monitoring data, including inspection reports and complaints
    - All related correspondence.
  53. Conservation develop a communication strategy to enable consistent delivery of the landfills program and consistent application of the Regulation. All policy should be documented and communicated in writing.
  54. Policy documents intended to guide owners and operators or potential owners and operators of landfills be made accessible on the government website.
  55. Conservation follow-up on the submission of preliminary closure and post-closure plans required for permitted landfills to ensure that they are received within the timeframe required.
  56. Conservation review and seek amendments to closure and post-closure plans for permitted landfills as necessary until they can be approved.
  57. All permits issued and renewed for landfills be processed based on established procedures. The review of each application should be documented in the file.
  58. All operators of landfills meet the requirements of the Regulation and of previous permits before permits are issued or renewed.
  59. All pertinent matters related to the issuance and renewal of permits be properly documented in the file.
  60. Copies of current permits be retained in all of Conservation's files for landfills.
  61. Conservation include conditions in each landfill permit to address the environmental risks associated with each landfill.
-



Work In Progress (cont'd)

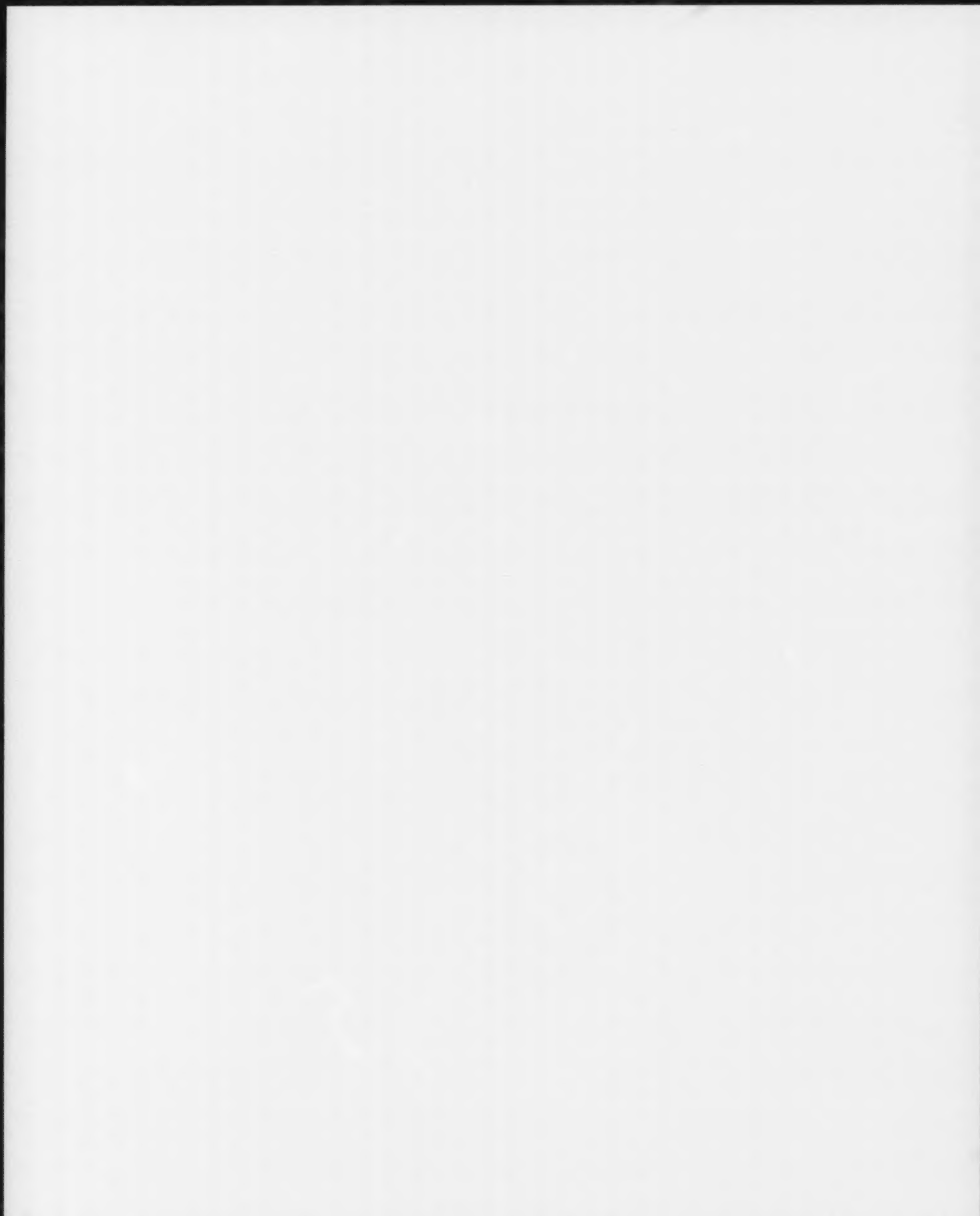
We recommended that:

62. Consideration be given to amending the *Waste Disposal Grounds Regulation* to require all Class 1 landfills to operate under similar conditions and restrictions, including licensing requirements. These conditions and restrictions should be determined based on specific risks associated with each landfill.
63. Conservation follow-up on the submission of preliminary closure and post-closure plans for licensed landfills and ensure that they are received within the timeframe required.
64. Conservation review and seek amendments to closure and post-closure plans for licensed landfills until approval can be granted.
65. Landfills be identified in such a way as to address the associated risks.
66. Priorities for monitoring and remediation of landfills be established.
67. Landfills that pose a high risk to the environment be identified and flagged for early attention.
68. Conservation takes steps to ensure that landfills operators comply with the Regulation by submitting closure notices prior to closure. To accomplish this, Conservation may need to develop an awareness program to ensure that landfill operators understand their obligations.
69. Conservation follow-up on missing documentation to ensure operators are in compliance with the Regulation and with operational conditions.
70. Conservation review all documentation submitted by operators with regard to landfills to ensure that the environment is being adequately protected. Any concerns noted during the review process should be addressed with the operators and followed up until such time that the concern no longer exists.
71. Conservation monitor landfills to ensure compliance with legislation and with permit and licence conditions.
72. Conservation inspect and monitor closed landfills until such time as they no longer pose a threat to the environment.

**Work In Progress (cont'd)**

We recommended that:

75. All municipalities with landfills quantify liabilities for landfill closure and post-closure costs according to PSA standards.
  76. All municipalities report and disclose liabilities for landfill closure and post-closure costs.
  77. Conservation conduct a review of the CSRA with a view to ensuring that the management of all contaminated sites is addressed in the Act.
-



## Culture, Heritage and Tourism; Finance



## 4. Special Audit: Image Campaign for the Province of Manitoba

### Summary from October 2007 audit report

On February 22, 2007, by resolution of the Standing Committee on Public Accounts, the Office of the Auditor General was requested to consider an examination and audit of the Spirited Energy Campaign.

On February 28, 2007, the Public Accounts Committee was advised that the Office would undertake the requested work as a special audit pursuant to subsection 16(1) of *The Auditor General Act* which states that:

*"When requested to do so by the Lieutenant Governor in Council or the Minister of Finance, or by resolution of the Standing Committee on Public Accounts, the Auditor General may examine and audit the accounts of a government organization, recipient of public money or other person or entity that in any way receives, pays or accounts for public money. But the Auditor General is not obligated to do so if he or she is of the opinion that it would interfere with the primary responsibilities of the Auditor General."*

Based on the issues raised at the Public Accounts Committee meeting of February 22, 2007 and our analysis of public discussion, we developed our audit objectives and decided to include the activities that began with the formation of the Premier's Economic Advisory Council Image Task Group. For purposes of this audit, we refer to the "Image Campaign" as the development of a Manitoba place brand (Manitoba Spirited Energy), the development of a brand implementation strategy, and the implementation of the brand.

The following audit objectives were developed:

1. To verify the total amount of public spending on the Image Campaign
2. To determine whether the vendor selection process for work on the Image Campaign was conducted in accordance with relevant Government of Manitoba policies and procedures
3. To verify that all goods and services purchased in relation to the Image Campaign were received
4. To determine whether research work (surveys and focus groups) gathered data and information relating only to the Image Campaign.

*The Auditor General Act*, in subsection 2(2) states that, "nothing in this Act is to be interpreted as entitling the Auditor General to question the merits of policy objectives of government". On that basis, the audit did not examine the merit of the policy decision to undertake an Image Campaign. Rather, the audit objectives focused on the appropriateness of the administration of the Image Campaign to date.

The Image Campaign for Manitoba was initiated by the Premier's Economic Advisory Council (PEAC). Government resources were used to implement different phases of the initiative. The process was a public-private collaboration to develop and launch a place brand.

Throughout the process of the Image Campaign, staff support was provided by PEAC's Executive Coordinator who is employed by the Department of Competitiveness, Training and Trade (formerly the Department of Industry, Economic Development and Mines). PEAC's Executive Coordinator and Communications Services Manitoba in the Department of Culture, Heritage and Tourism assisted PEAC in the process of procuring various vendors to work on different aspects of the Image Campaign.

The Image Campaign to date has involved the development of the place brand, an initial launch of the brand in Manitoba, advertising using the place brand image primarily in Manitoba, and the ongoing establishment of brand partnerships.

We verified that the total amount of spending by Government Departments on the Image Campaign between April 1, 2004 and March 31, 2007 was \$2,871,431. In addition, Government Departments incurred expenses and entered into commitments from April 1, 2007 to August 10, 2007 for a total of \$97,908.

We determined that Manitoba Crown Corporations spent an additional \$112,800 between April 1, 2004 and March 31, 2007 on the Image Campaign. These Manitoba Crown Corporations incurred further expenses of \$30,000 from April 1, 2007 to August 10, 2007.

The various components of the Image Campaign were approved by Treasury Board prior to their implementation. The vendor selection process was done in a manner consistent with government policies and procedures, except that:

- Untendered contracts in excess of \$1,000 were not publicly reported pursuant to government legislation, with one exception
- The tender documents for the development of an implementation strategy did not fully indicate the expected timeframe of the resulting contract and that the vendor selected would be compensated on the basis of a monthly retainer fee.

All goods and services purchased in relation to the Image Campaign were received.

All research work paid for by public money gathered information relating only to the Image Campaign. Our review indicated that the research findings and results were utilized to inform successive aspects of the Image Campaign.



## Status of recommendations as at June 30, 2011

The October 2007 report included 5 recommendations to the Departments. They indicated that as at June 30, 2011, 3 recommendations were implemented. They also indicated that 2 recommendations no longer required action because of a restructuring of related branding activities.

In November 2008, an organization known as the Manitoba Promotion Council was created. The Promotion Council's objectives were to:

- Build a broad base of public support within the province for the Manitoba branding initiative
- Create a public-private partnership to promote the province
- Develop and implement effective campaigns to recognize the province as a great place to live, work and do business.

The Province provided the Promotion Council with \$1.4 million in funding. Additionally, the Province also incurred direct expenses related to the activities of the Promotion Council. In June 2010, the Promotion Council was wound down and responsibilities were transferred to the Department of Entrepreneurship, Training and Trade.

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
5	3	2		

### Implemented/Resolved

We recommended that:

2. Contracts and agreements clearly set out specific expectations regarding supporting documentation requirements for expense reimbursement.
3. Tender documents fully describe the expected timeframe of resulting contracts and provide details about the pricing basis.
5. Government amend its GMA to include policies on sub-contracting.

### Action No Longer Required

We recommended that:

1. An overall project management function should be established for any future phases of the Image Campaign.
4. In future phases of the Image Campaign, more lead time in planning is required to ensure tendering on all major contracts.



## Education



## 5. Special Audit: Property Transactions in the Seven Oaks School Division

### Summary from August 2007 audit report

In February 2003, the Public Schools Finance Board (PSFB) authorized Seven Oaks School Division (SOSD) to dispose of vacant surplus land in the area of Winnipeg known as Swinford Park. Subsequently, SOSD acting as a land developer, subdivided, serviced and sold residential lots created from the surplus land in the Swinford Park area.

In August 2005, the Office of the Auditor General (OAG) received a letter that expressed concerns about the disposition by SOSD of the surplus lands in Swinford Park. These concerns related to the legality of a school division acting as a land developer; placing public funds at risk; and, whether SOSD had followed appropriate land disposition processes. Concerns were also raised relating to the appropriateness of the PSFB process for the awarding of a new high school to SOSD and whether or not PSFB, who was responsible for authorizing the dispositions, had ensured that the appropriate processes were followed in the Swinford Park dispositions. These concerns, along with issues related to alleged conflicts of interest as well as a related citizen complaint to the Minister of Education, Citizenship and Youth (Minister) from 2004, had been the subject of debate in the Manitoba Legislature in May and June of 2005.

Based on these concerns, on January 30, 2006, the OAG sent letters to the Minister, the Chairperson of PSFB and the Chairperson of SOSD advising them that the OAG would be conducting an audit of the acquisition and disposition of the Swinford Park properties. The audit was also designed to address the awarding of the new high school and to determine if there were other land transactions.

The following table provides a summary of the areas examined and our related conclusions.

Objectives	Conclusions
To determine whether SOSD was in compliance with <i>The Public Schools Act</i> (PSA) in the acquisition of properties for future school needs.	SOSD was in compliance with the PSA in the acquisition of properties for future school needs. Prior to June 2006, the PSA allowed school divisions to acquire land for future school needs without PSFB approval.

## Objectives

To determine whether SOSD's disposition of the surplus school lands in Swinford Park was in compliance with the PSA and the PSFB Disposition Policy.

## Conclusions

Given that residential land development activities by a school board are not specifically allowed for in the PSA, it is arguable that SOSD was not in compliance with the PSA when it undertook residential land development activities in Swinford Park. In the circumstances, it would have been prudent for the SOSD to have obtained legal advice before undertaking such activities.

By not notifying PSFB of all tenders received, SOSD did not comply with Subsections 3.2 and 3.3 of Section V of the PSFB Disposition Policy. The tenders for the sale of the Swinford Park lots clearly outlined SOSD's responsibility to service the residential lots. Although all the tenders were rejected by SOSD, the submission to PSFB of the tender results followed by the required tender review meeting would have provided PSFB with an opportunity to intervene or discontinue the project in July 2003, prior to the commencement of development activities.

PSFB's motion to authorize SOSD to dispose of surplus school lands in Swinford Park required that SOSD submit the Lot Sale Agreements (LSAs) to PSFB for approval prior to closure of the sale for each property. The LSAs for the sale of the Swinford Park lots clearly outlined SOSD's responsibility to service the residential lots. LSAs were not submitted to PSFB prior to finalization by SOSD. Had the LSAs been submitted to PSFB for approval prior to finalization, PSFB would have been provided with another opportunity to intervene or discontinue the project in September 2003.

The disposition process utilized by SOSD did not comply with the PSA, the PSFB Disposition Policy nor the PSFB motion authorizing SOSD to dispose of the surplus school lands in Swinford Park. However, the land management and sale processes that were used by SOSD to dispose of the Swinford Park properties were not unreasonable. SOSD hired a reputable planner to provide land management expertise and oversee the project, obtained authorization from PSFB for the dispositions, and reduced the financial risk associated with developing a residential subdivision by pre-selling lots prior to undertaking the servicing of these lots.

SOSD staff recognized that there is a risk of financial loss inherent in any land development activity. SOSD took steps which mitigated but did not eliminate the risk of loss of public funds expended in developing Swinford Park.

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**Objectives**

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**Conclusions**

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SOSD's accounting for the Swinford Park transactions was not adequate to provide the SOSD Board and staff with sufficient information to determine the financial position of the project at a given point in time.

The transactions between SOSD and the private landowners for the acquisition and disposition of the Swinford Park properties, while complicated, were fully documented and we found no evidence to suggest that anyone unduly benefited from those transactions.

The end result of the Swinford Park land development by SOSD was a "net income" of \$512,118 to the school division, however, this entire amount and an additional \$307,692 remain invested in surplus land with a total net book value at January 31, 2006 of \$819,810.

None of the SOSD Board members or senior management were listed as title holders of the Swinford Park properties.

Although some of SOSD's correspondence may not have been as clearly written as it could have been, we believe it provided the essential information required to understand SOSD's intentions to develop serviced residential lots in Swinford Park.

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To determine whether PSFB policies, procedures and practices were adequate to ensure the Swinford Park transactions were in compliance with the PSA and the PSFB Disposition Policy.

In our opinion, PSFB policies, procedures and practices were not adequate to ensure that SOSD's disposition of surplus school lands in Swinford Park were in compliance with the PSA. Given that residential land development activities by a school board are not specifically allowed for in the PSA, it is arguable that SOSD was not in compliance with the PSA when it undertook residential land development activities in Swinford Park. Based on meetings with and correspondence provided to PSFB by SOSD in April 2003, we believe that some PSFB staff knew or should have known of SOSD's intended development activities. Further, we believe that the PSFB Board members knew or should have known of SOSD's development activities no later than May 5, 2004, when they approved the Lot Sale Agreements (LSAs) submitted by SOSD. A reading of the LSAs would have made PSFB aware that SOSD was acting as a land developer.

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## Objectives

## Conclusions

In our opinion, PSFB procedures and practices were not adequate to ensure that SOSD's disposition of surplus school lands in Swinford Park were in compliance with the PSFB Disposition Policy. The motion that approved the sale of the Swinford Park lots required SOSD to provide copies of the LSAs to PSFB for approval prior to their having been signed and completed and that the PSFB Disposition Policy be followed. PSFB did not have a formal process in place to follow-up and ensure compliance with the requirements of their motions. In this instance, no follow-up of this motion took place. Had PSFB followed up on this motion they would have given themselves the opportunity to intervene or discontinue the Swinford Park project.

PSFB approved the LSAs as submitted in May 2004, without informing or consulting with the Deputy Minister and/or the Minister of the Department.

There was considerable confusion at PSFB as to whether the PSFB Disposition Policy was a policy requiring compliance or a guideline with no effective power. As well, the PSFB staff and Board were not knowledgeable of the sections of the PSA that pertained to the PSFB Disposition Policy. This resulted in inconsistent application of the Disposition Policy.

In our opinion, SOSD's correspondence to PSFB provided the essential information required to identify their intention to undertake land development activities in Swinford Park. Although we believe that in certain instances SOSD's intentions may not have been clearly communicated to PSFB, we found no evidence that SOSD intended to mislead PSFB, or to obscure its intended development activities from PSFB. Had the PSFB staff undertaken a thorough review of that correspondence, we believe that SOSD's intentions would have been apparent.

Neither the Minister, the Deputy Minister nor any of the PSFB Board members or senior management were listed as title holders of the Swinford Park properties.



Objectives	Conclusions
<p>To determine whether PSFB's decision process to approve a new high school to replace West Kildonan Collegiate Institute (WKCI) was clear and transparent and whether that decision process had been influenced by relationships between individuals at PSFB and SOSD.</p>	<p>A major renovation of WKCI was recommended by PSFB in March 2002 and approved by the Minister. In February 2005, this decision was altered with PSFB's recommendation, approved by the Minister, to build a new high school rather than proceed with the renovation.</p> <p>In our opinion, PSFB's decision process to approve a major renovation of WKCI was not clear and transparent. PSFB had established criteria which were to be utilized in the prioritization of major capital projects and a significant number of the criteria specified by PSFB were applicable to the WKCI renovation project. However, PSFB does not utilize a documented formal rating system to prioritize major capital projects and, as a result, we were unable to ascertain how, or if, PSFB prioritized this renovation project against any other requested projects.</p> <p>In our opinion, the decision process to approve a new high school to replace WKCI was clear and transparent, based on PSFB policy, and was not influenced by relationships between individuals at PSFB and SOSD. The decision to build a new high school was reached following a lengthy process of exploring alternatives to new construction and culminated with the realization that renovations to the existing WKCI would not be cost effective.</p>
<p>To determine whether the Department gave full and appropriate consideration to the citizen complaint with respect to Swinford Park.</p>	<p>The Department did not give full and appropriate consideration to the citizen complaint with respect to Swinford Park. In this instance, the Department's process for responding to citizen complaints did not identify the issues outlined in the complaint and did not ensure that the provided response addressed the issues in the complaint.</p> <p>The response drafted for the Minister by PSFB did not address the citizen's complaint. Had the response addressed the complainant's question relating to the authority of SOSD to act as a land developer, the Minister could have had an opportunity to address this issue and consider the Department's options at that time.</p> <p>The process of addressing citizen complaints was changed in 2005 to improve information provided to the Minister by the Department.</p>

## Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
4	4			

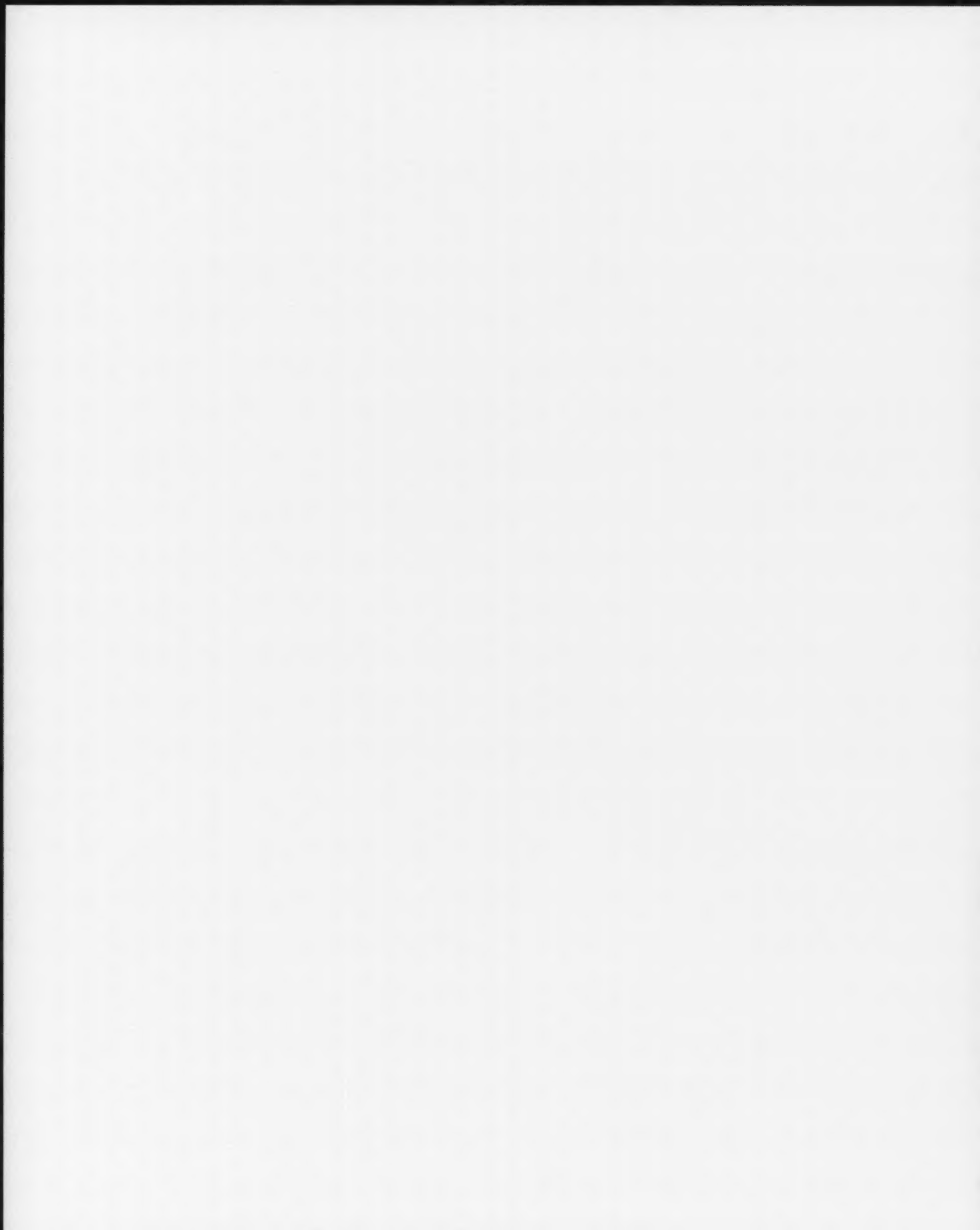
### Implemented/Resolved

We recommended that:

1. The Department review and update *The Public Schools Act* to clearly define and specifically set out the activities that a school board can engage in and clearly specify that other activities are not permitted.
2. The Department update the *Policy Statement Governing the Disposition of Surplus Public School Properties* to ensure that the policy for the disposition of all school board owned property is in compliance with the PSA. This update should include specific procedures for the disposition of school buildings and sites, vacant land, and all other school division buildings not used for educational purposes.
3. The Department clarify that the *Policy Statement Governing the Disposition of Surplus Public School Properties* is in fact a "policy" rather than a "guideline". This could be done by incorporating the policy as a regulation to *The Public Schools Finance Board Act*.
4. The Public Schools Finance Board develop a formal process to ensure that Board motions are followed up and reported back to the Board on a timely basis.



## Family Services and Consumer Affairs





## 6. Employment and Income Assistance Program

### Summary from December 2008 audit report

The Department of Family Services and Housing is responsible for administering the Employment and Income Assistance (EIA) Program. The EIA Program provides funding for the basic needs of individuals and families who have exhausted other means of financial support, as well as a variety of other supports to assist individuals in entering, re-entering or remaining in the work force. We examined the Department's processes for ensuring that only eligible applicants receive income assistance and that eligible individuals are paid the correct amounts. We also examined employment enhancement referral and monitoring processes and the income assistance rate setting process.

We found that:

- The Department assessed eligibility in accordance with the EIA Act and Regulation. However, we found that the Department did not regularly select a sample of EIA files to verify in greater detail the financial and other information obtained from applicants in order to ensure initial and on-going eligibility. Verification of this nature was only done in those circumstances where the information obtained appeared questionable. For example, requesting information from the Canada Revenue Agency in order to assess on-going eligibility was relatively rare. In addition, home visits to verify on-going eligibility were not always conducted every two years as required by departmental policy and the rationale for waiving these home visits was not always properly documented.
- In some cases, file documentation concerning proof of identity was incomplete.
- In most cases, an EIA Assessment Panel (Medical Panel) provided recommendations concerning eligibility for the persons with disabilities category. However, some decisions concerning eligibility for the persons with disabilities category were being made without first seeking recommendations from a Medical Panel, which may lead to inconsistent decision-making.
- Required annual review forms, monthly income declarations, and job search activity reports were generally being received from applicants and reviewed by EIA Program staff. However, if annual review forms were not received, we found that follow-up actions, and the rationale for those actions, were not always documented.
- The Department had dedicated Investigations staff to follow-up concerns with respect to potential program abuse.
- There were several agreements in place with a variety of jurisdictions and agencies that enabled regular information sharing in order to detect potential overpayments; however, there is room for further expansion in this area.

- Overpayments on open EIA cases were recovered through deductions from on-going benefits. Overpayments on closed cases were primarily managed through an agreement between the Department and the Canada Revenue Agency which allows the Agency to send applicable tax refunds (e.g., GST refunds) directly to the Department to be applied to outstanding overpayments, as well as through individual garnishee orders and voluntary payment arrangements.
- Benefit payments were accurately calculated in accordance with prescribed rates in most cases, although a small number of errors related to the accuracy and/or timeliness of data entry were noted.
- File documentation concerning participant work history and educational background, participant action plans, the authorization and rationale for training referral decisions, and attendance and progress in training programs was sometimes incomplete.
- The Department reviewed income assistance rates on an annual basis and the rates, as well as income and asset exemption levels, were periodically adjusted. The review considered several different factors: inter-provincial comparisons of the basic and shelter rate amounts, other benefits available to EIA participants, and various available low income threshold measures. However, there was no structured or documented process to ensure rates were determined in an equitable and defensible manner.

## Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
14	2		1	11

### Implemented/Resolved

We recommended that:

1. The Department develop procedures to further verify the financial information provided by applicants. This could include, for example, conducting credit checks on a test basis, requesting certain tax information from the Canada Revenue Agency, and/or selected home visits to verify assets.
8. The Department develop a process for more frequently requesting income tax information from the Canada Revenue Agency.

## Do Not Intend To Implement

We recommended that:

4. All decisions concerning eligibility for the persons with disabilities category be made using a consistent process. This could be accomplished by having all medical assessment forms reviewed by a Medical Panel.

*OAG Comment: The Department indicated that they take action, where appropriate, to ensure that Directors are using a consistent process when making decisions concerning eligibility for the persons with disability category and provide direction to staff through the issuance of Circulars. The Department has determined that a recommendation from the EIA Assessment Panel is not required in all cases. The Director may use their discretion in determining if a recommendation is needed.*

## Work In Progress

We recommended that:

2. The Department re-emphasize the importance of file reviews to supervisors in all offices and develop specific procedures and documentation standards to ensure that 10% of all new or re-opened files are reviewed each month, as required by the EIA Administrative Manual.
3. The Department obtain copies of two pieces of identification as proof of identity from all applicants seeking or currently receiving assistance. In cases where it is impossible to obtain copies of proof of identity documents, the Department should ensure that identification documents are viewed by the caseworker and that this is documented in the case file.
5. The Department ensure the consistent documentation of follow-up actions, including the rationale for those actions, in those circumstances where annual review forms have not been completed and returned by participants in a timely manner.
6. The Department ensure that home visits are performed on all EIA files at least once every two years, as required by the EIA Administrative Manual. Where the Department feels that a home visit is not warranted, a documented reason should be provided.
7. The Department analyze the costs and benefits associated with expanding its current information exchange arrangements.

Work In Progress (cont'd)

We recommended that:

9. The Department ensure that participant work and education history is properly collected and entered into SAMIN.
  10. The Department review the Training and Employment Links System in order to assess how best to increase use of this application.
  11. The Department ensure that participant action plans are properly signed and updated.
  12. The Department ensure that all referrals to training programs are properly approved by caseworkers and supervisors, and accompanied by an appropriate explanation as to the reason for the training program.
  13. The Department ensure that participant attendance and progress in training programs is monitored and that this information, as well as participant work and education history, is recorded into SAMIN.
  14. The Department institute a formal documented process for reviewing and making recommendations for periodically updating basic and shelter rates, income and asset exemptions, and other income assistance allowances in a logical and equitable manner.
-

## Finance





## 7. The Use of Derivative Financial Instruments in the Province of Manitoba

### Summary from December 2005 audit report

Derivative financial instruments are "financial arrangements between parties whose payments or value is derived from the performance of some agreed-upon, underlying benchmark. Derivative financial instruments (derivatives) can be issued based on currencies, commodities, government or corporate debt, home mortgages, stocks, interest rates, weather, or any combination." Some examples of derivatives include swaps (currency and interest rate) and forward contracts.

Derivatives can be used to increase the return on an investment and/or to hedge against (reduce) the risk of loss. The Province of Manitoba (the Province) uses derivatives in managing the Province's debt (borrowings) and investment portfolios.

The focus of our review was to determine whether the Province has a risk management process (derivative risks include management, market, legal, credit, and operational risk) in place, and whether that risk management process used by the Treasury Division with respect to derivatives (with respect to debt and investments) is consistent with industry best practices.

Our review of the risk management process regarding the use of derivatives was a review of only one component of the overall risk management process used by Treasury Division and the Department of Finance.

In broad terms, industry best practices define the risk management process as involving a number of activities and assigned responsibilities including:

- The strategic identification of objectives, along with the risks in achieving those objectives (Management in conjunction with, and approval by an Oversight Body)
- The development and action on a strategy to address the identified risks (Management)
- The development of policies and procedures for the conduct of its activities (Management)
- The establishment of benchmarks against which to measure its performance (Management in conjunction with, and approval by an Oversight Body)
- Monitoring of performance and compliance with policies and procedures (Management)
- Oversight of management's activities (Oversight Body).



The Treasury Division of the Department of Finance manages the use of derivatives. In July, 2003, the Division began a reorganization process to realign their operational structure in accordance with industry best practices. The reorganization created a front office, middle office and back office. Generally speaking, the offices are assigned responsibilities as follows:

- Front office is responsible for market analysis, and recommending and executing trading activity related to debt and investments including master agreements with derivative counterparties
- Back office is responsible for the settlement and confirmation of the trades as well as the accounting and financial reporting functions
- Middle office is responsible for policy development, monitoring and reporting compliance with policies and procedures, and risk and performance measurement and reporting.

The Province has a risk management process for derivatives in place, but as indicated in the general conclusions below, and in the details contained in this report, there are areas that need to be addressed to ensure that this process is operating consistent with industry best practices with respect to management, market, legal, credit, and operational risks.

- The Department of Finance and its Treasury Division have not formally documented their overall strategic objectives, a strategy on how to achieve those objectives, the strategy on how to identify the risks (risk identification), and the risk of achieving the strategic objectives (risk management strategy). Nevertheless, the Division has a working definition of its objectives, risk identification and risk management strategy. The Department and the Division use derivative financial instruments as one mechanism to implement that strategy.
- The Treasury Division's objectives, risk identification and assessment, and risk management strategy have not been approved. While there is a Derivative Policy statement, it also has never been approved. We believe that an oversight body should be involved in that approval process.
- Treasury Division developed a risk management policy referred to as the Derivative Policy. The Derivative Policy is part of the Division's overall Risk Management Policy which is still under development. We determined that the risk management process to address key risks involving the use of derivatives which include management, market, legal, credit, and operational risks, was generally consistent with industry best practices. However, we have a number of recommendations regarding the controls and procedures addressing operational risk as well market and credit risks.
- We believe that what constitutes acceptable levels of risk and risk limits need to be documented in a risk management policy statement. Similarly, there is a need for more documentation of the due diligence process regarding the deliberations and decisions to use derivatives. Additional documentation would provide more adequate audit trails of transactions.

- Because the Middle Office is still under development and therefore not fully functional, the risk management process for the Treasury Division as a whole is not fully developed. We recommended that the Department of Finance consider allocating more resources in order to complete the development of the Middle Office's functionality in the near term.
- We believe that the oversight function should be expanded. There is no governance equivalent to a board of directors in place to establish the strategic objectives and to set out a broad framework for management to work within and provide oversight. An oversight committee should receive timely and sufficient information to oversee the Treasury Division's activities. In the current organizational structure, the Capital Markets Committee is the senior committee overseeing the risk management process regarding the use of derivative financial instruments. No minutes are recorded at the Committee's meetings and therefore there is no audit trail documenting the Committee's deliberations and decisions.

### Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
19	19			

#### Implemented/Resolved

We recommended that:

1. The Division's objectives, risk identification and assessment, and risk management strategy be documented and approved. We also recommend that the Derivative Policy statement be approved.
2. The formulation and approval of the Treasury Division-wide Risk Management Policy statement be targeted as a key priority.
3. The risk management strategy be documented and approved by management and the Board of Directors (equivalent).
4. Maximum acceptable levels of risk and risk limits be specified in the Derivative (Risk Management) Policy.

Implemented/Resolved (cont'd)

We recommended that:

5. The Derivative Policy should document any distinctive characteristics such as liquidity and customization that may be used with the authorized types of derivatives.
6. The exercise of due diligence regarding the decision to enter into a derivative financial instrument agreement be documented. We also recommend that the deliberation of the type of derivative financial instrument to be used and its distinctive characteristics should be documented.
7. The internal control procedures be adhered to in order to ensure that documents supporting the execution of derivative transactions are duly authorized by staff who had delegated authority.
8. The trader's log book maintain a complete and accurate account of the relevant details of each derivative financial instrument contract.
9. Pre-numbered risk management sheets be used and accounted for to ensure the completeness of the records of derivative financial instrument agreements.
10. The derivative transaction in the Treasury Manager System be recorded after receiving the counterparty confirmation but before the effective date of the derivative financial instrument contract.
11. The internal controls regarding the confirmation of trades be strengthened by assigning responsibility to a staff person for the follow-up of outstanding confirmations.
12. The internal controls regarding the communication with counterparties following confirmation of trades be strengthened by assigning responsibility to a staff person for the monitoring of these communications.
13. Treasury Division expand their sensitivity analysis to separately evaluate the market risks associated with derivative financial instruments.
14. A review of the current credit limits should be undertaken within the context of the Treasury Division-wide credit risks.
15. An audit trail be established for the preparation and review of the monthly mark to market (valuation of derivatives) reports.

## Implemented/Resolved (cont'd)

We recommended that:

16. The risk management reporting process being developed requires standard exception reports to be produced at defined intervals.
  17. The Department of Finance strongly consider providing additional resources in the short-term to facilitate the full implementation of the Middle Office functionality.
  18. The Department establish an active and effective Board of Directors (equivalent) to determine Department-wide objectives, set the framework for Treasury Division management to work within and to provide oversight of Treasury Division's operations and performance.
  19. The Capital Markets Committee record minutes of their meetings in order to document their deliberations and risk management activities. That the Risk Committee consider meeting monthly to review exception reports and thereby document their governance activities. All meeting agendas and material submitted to the Committees should be retained for reference purposes.
-

## 8. Audit of Mandatory Legislative Reviews

### Summary from December 2007 audit report

Legislation affects all aspects of society and civic life. Legislation influences all sectors from health and the environment to culture and recreation. Given the pervasive impact of legislation, it is important that legislation maintain its relevance and necessity.

Over the past decade a number of statutes and regulations incorporated a clause for a mandatory review of the statute or regulation within 5 years of its enactment. Five out of 471 acts and 58 out of 940 regulations within the Continuing Consolidated Statutes of Manitoba contain such a requirement. Although a relatively small amount of legislation requires a review, the impact is widespread in terms of the diversity of legislation to be reviewed and the fact that 11 out of 16 departments have legislation with a mandatory review provision.

We found that those statutes with a mandatory review clause did undergo the required review. However, in the case of regulations, only 56% of mandatory reviews of regulations were undertaken. In all cases where a review was completed, the review incorporated stakeholder consultations pursuant to the legislation. Among those reviews that were conducted, there was a variety of interpretations by departments as to the breadth and depth of the work that was to be undertaken to fulfill the requirements for a legislative review.

## Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
3			1	2

### Do Not Intend To Implement

We recommended that:

2. Guidance be prepared in consultation with departmental staff to:
  - a. Assist departmental staff when they consider whether to include a mandatory review provision in legislation
  - b. Clarify government's expectations in relation to the legislative provisions on mandatory reviews
  - c. Assist departments in planning, conducting, and reporting on mandatory legislative reviews.

*OAG Comment: The Department indicated that the responsibility for planning, conducting and reporting of legislative reviews is the responsibility of the individual departments, as is the decision to determine if mandatory review provisions should be included.*

### Work In Progress

We recommended that:

1. A plan be developed to address the non-compliance with mandatory regulatory reviews.
3. Legal advice and ministerial approval be sought when a department is considering not undertaking a mandatory legislative review within the prescribed time period.



## 9. Public Sector Compensation Disclosure Reporting

### Summary from December 2009 audit report

We examined how Manitoba reports compensation it pays to senior employees. Our goal was to assess whether government can improve compensation reporting. Compensation is defined broadly in *The Public Sector Compensation Disclosure Act* (the Act) to include the total value of all cash and non-cash salary or payments, allowances, bonuses, commissions and perquisites.

We found that:

- Disclosure practices are consistent with those of most other provinces but Manitoba's reports are not readily accessible to the Legislative Assembly and the public
- Disclosure lacks details such as job title and job function that would help readers compare compensation between employees in the same entity and between entities
- Most public sector organizations comply with the Act
- There is no requirement for government to monitor compliance with the Act by public sector organizations
- Many not-for-profit organizations who receive government funding are not aware of their responsibilities under the Act. Public requests for this information are infrequent
- The threshold for compensation reporting has not been updated since 1996, and results in the reporting capturing more than just senior employees.



## Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
3				3

### Work In Progress

We recommended that:

1. The threshold for reporting compensation should be increased.
2. The public sector compensation disclosure reports for all organizations within the Government Reporting Entity should be accessible on a provincial government website.
3. Not-for-profit entities who receive government funding should not be required to provide audited compensation disclosure reports, but the compensation information should still be available, if requested.



## Health



## 10. Monitoring Compliance with The Ambulance Services Act

### Summary from December 2008 audit report

The Department of Health and Healthy Living funds the Ambulance Services program, which is administered by the Regional Health Authorities. Ambulance Services provides emergency medical response and transportation services, by ground ambulance or air, for individuals in need. We examined the Department of Health and Healthy Living's processes for administering the provisions of *The Ambulance Services Act* and *Ambulance Services and Licenses Regulation* as they related to licensing, inspection and the minimum specifications for equipment.

We found that the Department of Health and Healthy Living was appropriately administering the provisions of *The Ambulance Services Act* and *Ambulance Services and Licenses Regulation* as they related to licensing, inspection and the minimum specifications for equipment with the following exceptions:

- There was no established process to ensure that ambulance service providers that held a provisional license were complying with the provisions of their license
- There was no established process to ensure that ambulance attendants that held a probationary license were complying with the restrictions of their license
- There was no licensing process for aeromedical pilots and aeromedical attendants
- The Emergency Medical Services Branch (EMS) did not verify that all applicants for ambulance attendant licenses were at least 18 years old
- EMS did not verify that applicants for ambulance operator licenses held at least a class 4 driver's license.

## Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
3	3			

### Implemented/Resolved

We recommended that:

1. The Department establish a formal review process to ensure that ambulance service providers with a provisional license are complying with the provisions of their license.
2. The Department establish a licensing process for aeromedical attendants and air ambulance pilots.
3. The Department establish a formal review process to ensure that ambulance attendants with restricted licenses are complying with the restrictions of their license.

## 11. Pharmacare Program – Part 2

### Summary from December 2008 audit report

The overall purpose of the audit was to assess whether the Province of Manitoba (Province) has a cost effective program for managing Pharmacare.

Pharmacare is a universal, comprehensive, prescription drug benefit program for any Manitoban, regardless of age, who meets the deductible cost criteria for prescription drug costs. Manitoba is the only province in Canada which provides universal prescription drug cost coverage. The other provinces and territories limit coverage based on such criteria as age and income, or have a combination of private and public coverage.

In Manitoba, the objective of Pharmacare is to fund pharmaceutical benefits as provided for in *The Prescription Drugs Cost Assistance Act* and related regulations (Act). The Pharmacare Program protects residents of Manitoba from financial hardship resulting from expenses for prescription drugs.

Manitoba has had some form of prescription drug benefit program since 1971. Since 1996, the provincial drug program's eligibility and benefits have been determined by a person's family income and prescription costs incurred. The utilization and cost of Pharmacare has increased significantly over the last number of years, with program costs increasing at a rate of 15–20% a year. Since 1998, the number of Manitoba families benefiting from Pharmacare has increased by more than 50% from 56,375 to over 87,600 in 2006. Seniors constitute the single largest group utilizing the Pharmacare program. In the same period, from 1998 to 2006, Pharmacare's budget has more than tripled – going from \$62 million in 1998 to \$207 million in 2006.

We found that:

- The Provincial Drug Program (PDP), of the Department of Health and Healthy Living, had developed adequate processes to communicate the program terms and eligibility requirements to the public. However, there were opportunities identified to improve the communication process
- PDP had adequate processes in place to ensure eligibility of the individual when they were initially registered with the Pharmacare program
- PDP had adequate processes in place to verify ongoing eligibility of the insured person with the Pharmacare program, with the exception of changes to the person's third party insurance status
- Manitoba Health had a process in place to ensure that regulatory changes were reflected in the deductible calculation
- Manitoba Health had adequate processes and procedures in place to ensure that the calculation of the family unit's Pharmacare deductible was accurate



- PDP had an adequate process in place to ensure that pharmacies were being paid the proper amount for the cost of the drug claim
- There was no monitoring performed of professional fees claimed. Consequently, there was no process to assess whether professional fees were in compliance with the Act and Regulations
- Manitoba Health had adequate processes in place to ensure that only accurate and valid claims were paid. However, the Pharmacare program was not in compliance with the requirements of the Act and regulations in regard to accounting for the recovery of drug costs by Pharmacare beneficiaries from third party insurance providers
- Prior to June 2005, there was a lack of effective investigation and audit of the Pharmacare Program. Manitoba Health was in the process of developing this capability
- PDP had a process to ensure that drugs used in contravention of *The Food and Drug Act*, *The Narcotics Control Act*, and *The Pharmaceutical Act* were excluded from the calculation of the deductible accumulator
- All pharmacies used the Drug Program Information Network (DPIN) system. Controls within the DPIN system ensured that claims were accurate.

## Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
12	2	2		8

### Implemented/Resolved

We recommended that:

5. Manuals be standardized to ensure the consistency and inclusion of all necessary information.
9. Manitoba Health correct the inconsistency between current practice and current legislation.

*OAG Comment: The Department indicated that in 2009, The Prescription Drugs Payment of Benefits Regulation under The Prescription Drugs Cost Assistance Act was amended to formalize the current Pharmacare claims practices and clarify that Pharmacare is first payer for private third-party drug plans and second payer for public drug plans. The amendment made Pharmacare responsible as first payer for drugs where the individual has private insurance but as second payer when the individual is eligible to have their drugs paid for through a program of another government department, the Government of Canada, the government of another jurisdiction in Canada (including a municipal government) or an agent or agency of these governments. Manitoba Health will work with Civil Legal Services to revise the Pharmacare application form to include a requirement for disclosure of any third-party drug coverage and a requirement to notify Manitoba Health if the third-party insurance carrier changes.*

### Action No Longer Required

We recommended that:

3. A monitoring process be implemented to detect individuals who acquire third party insurance coverage.

*OAG Comment: See recommendation 9.*

4. A process be implemented for reporting and updating third party insurance coverage.

*OAG Comment: See recommendation 9.*

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### Work In Progress

We recommended that:

1. There should be a documented communication strategy.
  2. The communication strategy appropriately address the needs of all client groups.
  6. A formal process be implemented to ensure policy and procedures are updated on a regular basis.
  7. A process be implemented to assess professional fee compliance with the Act.
  8. A process to monitor professional fees be put in place.
  10. Manitoba Health complete the process to analyze claims for audit.
  11. Manitoba Health complete the process of prioritizing pharmacies for audit.
  12. Manitoba Health develop an audit process to review the accuracy and validity of claims submitted by pharmacies.
-

## 12. Personal Care Homes Program

### Summary from November 2009 audit report

Personal Care Homes (PCHs) provide 24-hour, 7 days-a-week supervised care, including health care services, to seniors who can no longer manage safely at home, even with family support and community services. The Department of Health and Healthy Living (the Department) oversees and regulates PCHs, with certain responsibilities delegated to the Regional Health Authorities (RHAs).

Demographic projections provided by the department show Manitoba's population of seniors aged 75 and older growing by 91% between 2006 and 2036. Many are vulnerable to potential harm because of their age, as well as physical and cognitive impairments.

We examined the Department's processes for ensuring the quality of PCH care; assessment and placement procedures for PCH admission, including management of PCH wait lists; long-term capital planning for meeting future PCH bed needs; and processes for ensuring PCH financial and operational accountability, including funding mechanisms and public performance reporting.

Our findings included:

- **Standards Visits:** Regulated PCH standards were in place and consistent with other jurisdictions. Teams with appropriate skills and training visited each PCH once every two years to assess compliance with standards. However, visits were always scheduled in advance and during weekdays. In addition, the Department did not use potential risk factors (such as trends in critical incident reports) to determine visit frequency or the standards to be assessed. The Department followed-up on required improvements, but did not meet its goal of performing follow-up visits to 30% of the PCHs with completed action plans, relying instead on RHA oversight. The Department also did not summarize Province-wide standards results to determine any action required to respond to trends and improve outcomes. We compiled these results as at December 31, 2008 and found more than half the PCHs had not met 4 of 5 core standards. This reflected both the level of compliance and the assessment methodology used.
- **Licensing:** The Department had established a license review process for renewing PCH licenses. However, it had not developed formal criteria for licensing and a review was not always conducted to ensure processes were in place to meet PCH standards when issuing a license to a new PCH.
- **Wait Lists:** RHAs monitored and managed PCH wait lists, but some did not have systems to track how long each senior had been waiting or the average wait time.

- **PCH Facility Long Term Planning:** The Department gathered data for PCH facility long term planning, but had not reassessed capital funding requirements to reflect the current status of the Aging in Place strategy and current PCH capital needs identified by the RHAs.
- **Financial and Operational Accountability:** Different PCH funding formulas had evolved over the years that were not logically supported by current data and analysis, although a new funding initiative will partially address some of the issues. Service Purchase Agreements held the PCHs accountable to the RHAs for financial and operating performance, but for-profit PCHs were not required to provide audited financial information. There was limited public reporting of PCH performance, such as results of standards visits and information on wait lists.

### Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
16	9			7

#### Implemented/Resolved

We recommended that:

1. The Department establish a process to periodically review and update the PCH standards set out in *The Personal Care Homes Standards Regulation*.
2. The Department exclude any standards consultant providing significant consulting services to a PCH before a standards visit from assessing compliance with the standards during the visit.
3. The Department adopt a more risk-based approach to selecting the PCHs to visit and the PCH standards to assess, while still ensuring that all standards continue to be assessed at all PCHs over a long term cycle.
5. The Department conduct some visits on an unannounced basis and schedule some visits during evenings, nights and weekends.
6. The Department develop and regularly use more detailed written guidance and checklists for standards visits to ensure consistency in assessing and documenting compliance with the PCH standards.

### Implemented/Resolved (cont'd)

We recommended that:

9. The Department develop criteria to guide the exercise of professional judgment in making license-renewal recommendations.
10. The Department enhance the information available for making license-renewal recommendations and keep a record of all information used in the license review process.
11. The Department develop a formal process for issuing initial licenses to new PCHs that includes, before issuing the license, receipt of a favourable report and positive recommendation from the Director of Continuing Care, based on a visit to the PCH by a standards consultant.
15. The Winnipeg RHA require all proprietary PCHs to provide audited financial information.

### Work In Progress

We recommended that:

4. The Department extend PCH standards visits to facilities with interim PCH beds.
7. The Department verify the corrective actions reported by PCHs in their action plans and progress reports, using a combination of risk-based follow-up visits and signed declarations of verification from the RHAs.
8. The Department periodically summarize and review Province-wide results on the level of compliance with PCH standards to identify actions required to respond to trends and to improve results.
12. The Department and the RHAs track and monitor wait times to first and preferred PCH placement offers, as well as the number of seniors waiting for PCH admission.
13. The Department develop a PCH facility long term capital plan consistent with demographic and population trends, the current status of the Aging in Place Strategy, and current PCH capital needs identified by the RHAs. The plan should include total capital funding requirements and the Department should determine how these are to be prioritized and managed.



Work In Progress (cont'd)

We recommended that:

14. The Department and the RHAs work together to develop PCH funding options that can logically support any differences in PCH funding levels with updated financial information and assumptions.
  16. The Department enhance publicly available information concerning PCHs to include information on compliance with PCH standards.
-



### 13. Winnipeg Regional Health Authority – Administration of the Value-Added Policy

#### Summary from May 2010 audit report

On January 31, 2009, a Winnipeg newspaper published an article titled *"What's in the Envelope?"* It said that, since 2000, the Winnipeg Regional Health Authority (WRHA) *"accepted more than \$20 million in money, equipment and other gifts from medical suppliers"*. The article also said the funds were part of WRHA's "Value-Added" policy – which allowed WRHA to *"accept cash and other bonuses given out by medical suppliers awarded contracts"*.

On February 5, 2009, we informed both the Minister of Health and the Chair of the WRHA Board that we would audit WRHA's purchasing process, specifically, the administration of the Value-Added policy. Our audit goals were to:

1. Determine the total dollar value of Value-Adds received from December 1, 1999 to May 31, 2009
2. Determine the nature of each Value-Add item WRHA accepted
3. Assess if the Value-Added policy was being followed
4. Assess the competitive bid process and verify prices paid for goods and services
5. Evaluate the selection process for major construction projects
6. Assess the adequacy of public reporting for items procured
7. Determine if WRHA Board or Committee members, senior management, or other employees benefitted personally from Value-Adds.

We found that the Value-Adds that WRHA received took the form of cheques as well as product, equipment and education. We found no evidence that anyone benefitted personally from Value-Adds. The cheques were received in the form of unrestricted or restricted funding. Our audit confirmed that all such funding was properly recorded by WRHA. There was no indication that there was ever any "cash" in "brown envelopes". Controls around the Value-Adds for product, equipment and education were weak, but this control weakness was isolated to these items. Tendering for goods and services and construction contracts was well controlled and included a competitive bidding process, except for the project consultants for construction contracts, which were not tendered.

Our findings with respect to the seven audit goals are as follows:

1. **The total dollar value of Value-Adds** – The original estimate of \$20 million in Value-Adds included \$8,478,959 in supplier rebates, incentives, and other items. The actual amount of Value-Adds received from December 1, 1999 through May 2009 was \$11,246,809. At May 31, 2009, WRHA had accepted an additional \$2,335,940 of Value-Adds to be received in future years.
2. **The nature of items WRHA accepted** – Of the amounts received, \$9,543,648 was cash in the form of cheques payable to WRHA. We verified that WRHA properly recorded these amounts. The remaining \$1,703,161 was received in the form of product, equipment or education. We were able to verify 100% of education, 95.4% of product, and 87.3% of equipment. But we also found that WRHA had weak controls over these items and did not record them.
3. **WRHA's Value-Added policy** – Value-Adds must be separated from supplier bids during the bid-evaluation process. WRHA followed this policy. The intention of the Value-Added policy is to ensure impartial bid selection. In theory, this is good practice, but in reality, there could be an influence from Value-Adds on vendor selection over time. Suppliers to WRHA also donate to Manitoba's hospitals and universities, which may also influence decisions. In our view, including all unsolicited offers in bid evaluations, combined with public disclosure of vendor payments and Value-Adds, would reduce the possibility of influence.
4. **The bidding process** – For those items we audited, the price paid matched the contract price and a competitive bid process was used. Control sheets that summarized bid submissions had two signatures. Evaluation committees typically consisted of several individuals. These internal controls cannot eliminate the possibility of fraud through collusion or prevent suppliers from providing personal benefits outside the system. But we did not receive –nor did we find– any evidence to suggest that was happening.
5. **The selection process** – We did not find any Value-Adds in construction contracts that we audited. But WRHA did not use a competitive bid process to select project consultants.
6. **Public Reporting** – Unlike vendor payments made by core government, WRHA's vendor payments are not publicly reported. Greater transparency would reduce the perception of bias and strengthen WRHA's accountability to the Legislature and the public.
7. **Personal benefits** – We found no evidence that anyone benefitted personally from Value-Adds. The wording in the Value-Add policy that "... *may also benefit Board Members, WRHA Logistics Services employees, Facility/Program employees, WRHA employees or Physicians*" should be amended.

## Status of recommendations as at June 30, 2011

The May 2010 report included 8 recommendations to the Winnipeg Regional Health Authority (WRHA). They indicated that as at June 30, 2011, 3 recommendations were in progress. Additionally, they indicated that 5 recommendations no longer required action as in September 2010 the WRHA changed their purchasing policy to no longer accept Value-Adds. The WRHA indicated that they continue to track Value-Adds received prior to the purchasing policy being changed.

Total Recommendations	Recommendations Considered Cleared		Work In Progress
	Implemented/ Resolved	Action No Longer Required	
8		5	3

### Action No Longer Required

We recommended that:

1. WRHA ensure all contract files include complete documentation on Value-Adds, including vendor documentation and senior manager approval.
2. WRHA track and record all Value-Adds, including non-monetary items, for control and accounting purposes.
3. WRHA amend the Value-Add policy to remove the reference to "may also benefit" Board Members and others.
4. WRHA include all unsolicited offers in the bid evaluation process.
5. WRHA publicly disclose vendor payments and Value-Adds.

*OAG Comment: The WRHA does not publicly disclose bid pricing as they believe that it is not in the best interests of the WRHA or their vendors.*

### Work In Progress

We recommended that:

6. WRHA develop a coding protocol to be implemented at all sites in order to enable the matching of contracts and related payments.
  7. WRHA develop a formal documented policy for capital project tendering.
  8. WRHA select project consultants using a competitive tendering process.
-

## Innovation, Energy and Mines



## 14. Compliance with Oil and Gas Legislation

### Summary from December 2008 audit report

The purpose of our audit was to evaluate the efforts of the Department of Science, Technology, Energy and Mines to ensure compliance with *The Oil and Gas Act* and related regulations in managing Manitoba's oil and gas resources. The Department manages these resources through the administration of several Acts and regulations.

We found that the Department was appropriately administering the provisions of the Act and related regulations as they related to permits and licenses. We determined that the appropriate amount of taxes and royalties were being assessed and paid on oil and gas production in Manitoba with one exception. In that situation, royalties and taxes were not determined in accordance with the regulation resulting in an under-payment of the royalties and taxes otherwise payable. We also identified the need to improve follow-up procedures where information on royalties and taxes was not being submitted on time; to recalculate taxes and royalties payable on a timelier basis; and to verify submitted information.

### Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
8	4			4

#### Implemented/Resolved

We recommended that:

1. The Department document the Pipeline Construction Permit application process and amend the application forms for battery and pipeline construction permits to include a place for inspectors and engineering staff to indicate their approval.
2. The Department amend the application form for well licences to include a place for engineering staff to indicate their approval.
3. The Department amend the "Application to ..." form to include areas for inspectors and engineering staff to indicate their approvals of the application.
4. All ongoing geophysical licence inspections done by the Branch be documented.



Work In Progress

We recommended that:

5. The Branch complete the implementation of their new tax and royalty system in order to perform tax and royalty recalculations automatically and on a more timely basis.
  6. Prior to final implementation of the new system, the branch perform a review of the new system to ensure it is operating effectively and doing the recalculations correctly in accordance with the regulations.
  7. The Department ensure that oil producing companies calculate, and pay, their royalties and production taxes in accordance with the regulation.
  8. The Petroleum Branch audit the production records of individual wells and the price production companies receive for their oil on a rotating sample basis to ensure correct production and prices are reported and thereby ensure the correct amount of royalties or taxes are paid.
-

## Legislative Assembly



## 15. Members' Allowances Program

### Summary from November 2009 audit report

The Office of the Auditor General conducts an annual audit of the financial statements of the Allowance Claims for the Members of the Legislative Assembly. The financial statements disclose the total amounts spent by each Member for each allowance category for the fiscal years ended March 31. As a result of our audit, we issue an opinion on fairness of presentation of that statement.

In June 2008, we decided to conduct a more detailed audit of the Allowance Claims to go beyond the scope of a financial statement audit. Our audit covered 100% of Members' Allowance Claims for the two-year period from April 1, 2006 to March 31, 2008 excluding Members' Compensation (Indemnities) and salaries paid to constituency staff. Our audit also covered the Members' Printing Allowance for that same period.

Nothing came to our attention during this audit to suggest that material inappropriate spending was taking place. Our audit discovered that Members spent within the allowance limits. However, many of the allowance claims did not have adequate documentation, and therefore we are unable to provide assurance that the Members' Allowance Claims for the years ended March 31, 2007 and 2008 were all related to expenses for non-partisan access and service to constituents. Our audit did raise concerns around the existing culture and the current monitoring practices, and identified the need to update and modernize the rules.

We found that a culture has come to be adopted that permits expenditures without appropriate attention to details. Instead of exercising their monitoring role, we found examples of the Members' Allowances Office (MAO) taking a deferential role in relation to the Members. We became aware of MAO staff preparing or partially preparing claims for some Members and processing expenditures for items which should not have been permitted.

In a number of sections of this report we outline differences between the *Members' Allowances Regulation* (Regulation) and current practices. The differences are the result of Legislative Assembly Management Commission (LAMC) decisions and interpretations made by successive Commissions over a number of years. These amendments to the rules have, in our opinion, reduced the effectiveness of control procedures and now stray significantly from the intent of the Regulation. We believe that current practice would not be aligned with what citizens would expect from elected Members. Of significance is the difference between the Regulation and practice around office equipment, computers and furniture (capital assets) as well as in the nature of documentation required to be submitted to support Member donations (cash and products) and other contributions made to constituents and claimed under the Representation category.

With regard to capital assets, we found that while the Regulation clearly states that capital assets are "property of the Legislative Assembly", Members have been allowed to retain these items for personal use after a depreciation period.

With respect to required documentation, the Regulation specifically refers to the need for the Member to submit a "receipt" or in the case of a donation to a charitable or non-profit organization, an "official receipt". We found that often Members are not providing the required documentation. The Regulation does permit Members to complete a "Statutory Declaration Form" in the event that a receipt is lost or unattainable, which Members used over 400 times during the period of our audit. This practice is not adequate to demonstrate accountability over the use of public funds.

We also found that the Regulation has not been rigorously reviewed to ensure that it anticipates all expenditure categories and reflects a contemporary view of public expectations and best practices. There has been a need for the LAMC to provide interpretations when situations arise which are not clearly described in the Regulation. Most allowance categories include examples of this, but we found that clarity was particularly needed within Communication Charges, Donations and Gifts, Travel and Living Expenses.

Contemporary expectations around accountability and transparency are not reflected in the current Regulation. A separate regulation around disclosure is issued, being *The Members' Salaries, Allowances and Retirement Plans Disclosure Regulation* (Disclosure Regulation). Ironically the Disclosure Regulation is not readily available to the public. *The Legislative Assembly Act* requires that financial statements be prepared annually, summarizing the categories of expenditures. Our office audits these financial statements and they are made available to the public in Volume 3 of the Province's Public Accounts. However, the Disclosure Regulation only makes information about detailed transactions available upon request and after paying applicable fees.

To both prevent inappropriate expense reimbursements and protect Members from allegations of improper spending, a number of changes would have to be implemented. There is a need to update the rules, to clarify the documentation required to support the claims and to strengthen the monitoring practices.

## Status of recommendations as at June 30, 2011

After our audit, an Interim Commissioner for Allowances was appointed (Commissioner) with the following mandate:

- a. To review the Auditor General's 2009 annual report as it relates to members' allowances established by regulation
- b. To decide what regulations, or amendments to existing regulations, should be made in order to implement the recommendations contained in the Auditor General's report
- c. Without limiting the generality of clause (b), to make regulations requiring details about members' allowances to be published at least quarterly by posting them on the Assembly's website, and prescribing the details to be published.

The Commissioner issued his report on September 1, 2010 setting out his decisions as they relate to his mandate. Various changes to Legislation and Regulations took place to address the recommendations in our report. A full version of the Commissioner's report can be accessed through the following website, [www.reviewcommissioner.mb.ca/](http://www.reviewcommissioner.mb.ca/).

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
3	3			

### Implemented/Resolved

We recommended that:

1. As input to the Commissioner's work in reviewing the Members' Allowances that a compliance audit be conducted.
2. The MAO report to the Clerk of the Legislative Assembly.
3. The rules for Members' Allowances and Printing claims be amended to clarify the documentation requirements, to strengthen public accountability and to reflect best practice. The amended rules should address the items listed in Section 6.2 of the report.





## Local Government



## 16. Special Audit: Rural Municipality of La Broquerie

### Summary from March 2008 audit report

Between 1989 and 2002, the Rural Municipality of La Broquerie (RM) had been governed to a large extent by the same Councillors and Reeve. The RM's Chief Administrative Officer (CAO) had been in place since 1975, at which time the RM's population was one-third of what it is today and local development was minimal. This Council and Administration worked to enhance the community by building a new arena, installation of natural gas to the RM and provided office space for the newly formed regional health authority (South Eastman Health). In the municipal elections of 2002 the RM elected a new Reeve and one new Councillor.

After about a year in his position, the new Reeve began to question certain expenditures, the lack of tendering and the rationale for providing free snow clearing of hotel parking lots. In February and March 2005, the Reeve became involved in a confrontation with the Council over a number of issues including his inability to obtain information from the Council and CAO. This culminated in the Reeve writing a letter to the Department of Intergovernmental Affairs (Department) in early March 2005 in which he expressed his concerns and requested that the Department conduct an audit of the RM.

Around this time, certain citizens of the RM were also questioning the operations of the RM and subsequently organized themselves into a group known as The Coalition for Responsible Municipal Government in the Rural Municipality of La Broquerie (Coalition). The Coalition expressed concerns relating to the RM's budgeting and approval process for the financing of three major capital projects and conflict of interest issues involving the CAO, the former Reeve, and some Councillors. Throughout 2005, the Coalition made several requests to the Reeve, Council, and the CAO for publicly accessible information relating to these issues; submitted requests for RM documentation under Part 2 of *The Freedom of Information and Protection of Privacy Act*; made a complaint to the Ombudsman; and made a formal complaint to the Municipal Board.

Subsequently, the Coalition came to the Office of the Auditor General (OAG) and brought forward allegations concerning the RM related to non-compliance with municipal legislation, inadequate policies and procedures, unsupported and inappropriate payments from municipal funds, and potential conflict of interest situations. They also raised concerns with the OAG about a lack of response by the Department to their allegations.

In the October 2006 municipal elections, the RM elected a new Reeve and three new Councillors. The new Reeve and two of the new Councillors were members of the Coalition. The complaint previously filed with the Municipal Board was withdrawn by the Coalition in March 2007. The Municipal Board closed its file on this matter on April 10, 2007.

Based on an assessment of the allegations, on December 12, 2006, the OAG advised the Deputy Minister of the Department and the Reeve of the RM, that the OAG would be conducting an audit in respect of the operations of the RM. The Deputy Minister was also advised that the OAG would be reviewing the complaint handling process of the Department.

Objectives	Conclusions
To determine whether the RM had appropriate internal controls for its day-to-day operations	<p>The RM did not have appropriate internal controls for its day-to-day operations and therefore the RM was exposed to the risk that inappropriate transactions had occurred and had not been detected.</p> <p>In a small organization such as the RM, it is difficult to achieve an adequate level of segregation of duties and therefore it is imperative that compensating controls are in place. These controls would include formal oversight of the Assistant CAO's functions by the CAO or a designate of Council in the CAO's absence. However, as indicated above, these compensating controls were not in place at the RM during the period of our audit.</p> <p>The process of having all Council members review payments during Council meetings is not efficient.</p>
To determine whether the RM had formal policies and procedures in place for significant areas of their operations.	<p>The RM operated without the benefit of any formal policies and procedures for significant areas of their operations. We have highlighted a number of instances in this report where citizens' concerns and lack of public trust in the RM administration may have been avoided if policies and procedures had been in place and followed.</p>

## Objectives

## Conclusions

To determine if the amounts owing to the RM from local companies relating to paving agreements had been paid.

Not all of the amounts owing to the RM from local companies relating to the paving agreements had been paid. Some of the local companies did not comply with the repayment terms of the agreements. The argument for non-payment was not relevant as it related to a separate issue and had nothing to do with their obligations under the paving agreements. By not taking any action on the overdue accounts, the RM did not treat all companies on a consistent basis.

By not actively following up on the amounts owing to the RM and by not providing Council with complete information on the status of these outstanding amounts, senior staff of the RM did not act in a prudent business manner.

The CAO and Council members who entered into contracts with the RM still had a fiduciary responsibility to act in the best interests of the RM. Council should have been made aware of this conflict of interest situation and should have enforced collection of the receivables.

To determine if the CDC had procedures and processes in place for the monitoring of its Community Works Loan Program (CWLP) and other loan programs.

The CDC did not have adequate procedures and processes in place for the monitoring of its loan programs. Documentation was inadequate.

Due to the lack of adequate documentation maintained by the CDC we were not able to quantify the extent to which the CDC administered loans were from the CWLP or their own loan program.

It appeared that loans were being collected except for the three interest free loans to Camp Bel-Air, the Golf Course and the Hotel La Broquerie.

The CDC Board of Directors did not act in compliance with its By-Law by approving the loan and then subsequently acting as a guarantor to Illico Manitoba Inc. These two transactions individually and in total significantly exceeded the stated maximum in the CDC By-Law.

The CDC "Conflict of Interest Policy and Guidelines" provide board members with rigorous standards for ethical behaviour. The CDC did not have appropriate documentation in place to demonstrate whether they removed themselves from all discussions and did not vote in situations where they had a conflict.

Objectives	Conclusions
To determine if the RM provided free snow clearing to a local hotel in which the CAO and two Councillors had a financial interest.	<p>The RM provided free snow clearing to a local hotel in which the CAO and two Councillors had a financial interest as well as to a hotel in the Steinbach area.</p> <p>We found no evidence that the CAO and the two Councillors who had a financial interest in the local hotel had influenced the decision to provide free snow clearing to the hotel in La Broquerie.</p>
<p>To determine whether the RM had Ministerial approval for budgeted deficits as required by <i>The Municipal Act</i>.</p> <p>To determine whether the RM advised the Minister in writing on a timely basis when a deficit was likely to occur in the year.</p>	<p>The RM's financial plans for 2002 to 2006 projected a balanced budget; therefore the RM was not required to obtain Ministerial approval for the budget.</p> <p>The RM did advise the Minister of its deficits each year. However, this was not done on a timely basis as required under <i>The Municipal Act</i>.</p> <p>Without an increase in the mill rate it was likely that the RM would incur an operating deficit each year and as a result, the annual financial plans approved by Council were not realistic.</p> <p>Despite the lateness of advising the Minister of its expected operating deficits and the frequency and extent of these deficits, no formal action was taken by the Department to address this.</p>
To determine whether the RM provided proper public notice for the public hearings to discuss its financial plans in accordance with <i>The Municipal Act</i> .	The RM complied with <i>The Municipal Act</i> from 2002 through 2005 with regard to providing proper public notice for public hearings for discussion of its financial plans except for the requirements to include in the public notice a description of the purpose of the hearing and that the information would be available for review at the RM office. The RM was in compliance in 2006.
To determine whether the RM minutes recorded Councillor votes on the third reading of by-laws as required by <i>The Municipal Act</i> .	The RM was in compliance with <i>The Municipal Act</i> after January 11, 2006.
To determine whether the Local Urban District (LUD) of La Broquerie prepared an annual service plan in compliance with <i>The Municipal Act</i> .	The RM and the LUD were not in compliance with <i>The Municipal Act</i> when they failed to have an LUD service plan prepared and adopted for the years 2002 to 2006.

Objectives	Conclusions
To determine whether the RM had established an organizational by-law and a procedures by-law in compliance with <i>The Municipal Act</i> .	<p>By not establishing an organizational by-law and a procedures by-law until July 2005, the RM was not in compliance with <i>The Municipal Act</i> from July 1997 until July 2005.</p> <p>In 2005, the RM engaged a lawyer to prepare the by-laws at a cost of \$33,700, which in our view was excessive. The RM could have utilized the samples in <i>The Municipal Act Procedures Manual</i> to produce the by-laws at minimal cost.</p>
To determine whether the RM was allowing taxpayers sufficient time to pay supplementary taxes in accordance with <i>The Municipal Act</i> .	By not allowing 90 days before imposing penalties for the non-payment of supplementary taxes, the RM was not in compliance with <i>The Municipal Act</i> from 2003 to 2006.
To determine whether the Reeve and Councillors filed with the municipality a Statement of Assets and Interests on an annual basis as required by <i>The Municipal Council Conflict of Interest Act</i> .	<p>The Reeve and Councillors provided Statements of Assets and Interests in the years of their election. However, by not filing these statements annually they were not in compliance with <i>The Municipal Council Conflict of Interest Act</i>.</p> <p>By not notifying the Reeve and Councillors of their failure to submit their Statements of Assets and Interests on an annual basis, as required by <i>The Municipal Council Conflict of Interest Act</i>, the CAO was not in compliance with the Act.</p> <p>There is no requirement in <i>The Municipal Council Conflict of Interest Act</i> for the Statements of Assets and Interests filed by Council members to be independently assessed for accuracy and completeness. Additionally, there is no requirement in the Act for the CAO, who receives the filed Statements, to advise Council members when they may be in a potential conflict of interest position. The Act does provide a mechanism for "any person" to allege a member of Council has violated a provision of the Act. Accurate and complete Statements of Assets and Interests are integral to the scheme; without these documents there is limited ability to allege a violation.</p>



Objectives	Conclusions
To determine whether senior RM staff remuneration was paid in accordance with approved wage agreements and properly reported for income tax purposes.	<p>Remuneration to senior staff was paid in accordance with approved wage agreements for the period 2002 to 2006 except for the payments to the Assistant CAO in 2002 and 2003 for attendance at evening municipal meetings.</p> <p>The RM did not include all remuneration paid to senior staff on T4 information slips for the years 2002 through 2006.</p> <p>The RM did not include all remuneration paid to senior staff in their calculation for <i>The Public Sector Compensation Disclosure Act</i> for the years 2002 through 2006.</p>
To determine whether the contract for cleaning services was awarded on a competitive basis and that amounts paid for these services were reasonable.	As a result of not seeking competitive bids for cleaning services prior to 2007, and lacking sufficient documentation to demonstrate that the level of payments supported the services provided, the RM overpaid for cleaning services during the period of our review.
To determine whether the payments by the RM of senior staff expense accounts and local meal and entertainment expenses were appropriate, supported, and in accordance with approved RM policies and/or procedures.	<p>The RM did not have formal policies and procedures for claiming expense accounts and local meal and entertainment expenses. The RM did not ensure that these transactions were adequately supported and subjected to a formal review and approval process. Therefore, the RM was exposed to the risk that inappropriate expenditures had occurred and had not been detected. In addition, given the operating deficit situation the RM faced each year, Council did not appropriately control public money in their trust.</p> <p>In our opinion, it was not appropriate for the CAO and the Assistant CAO to claim a full day per diem on those occasions where meals were included in registration fees, or where they were not required to be out of town for a full day.</p>
To determine whether RM Councillor remuneration and expenses were paid in accordance with indemnity by-laws, and were supported and properly reported.	<p>While payments to the Reeve and Councillors for remuneration and expenses were supported by a standard claim form and supporting documentation, the RM did not operate in compliance with its indemnity by-laws when it paid Councillors the special meeting amount to attend regular meetings.</p> <p>The RM's by-laws were incomplete because they did not address the portion of their compensation that was non-taxable. The T4 information slips were therefore incorrect.</p>

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**Objectives****Conclusions**

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To determine whether the RM's approval process for their major capital projects was open, transparent, and in compliance with *The Municipal Act*.

The RM's approval process for the capital projects related to the expansion of the sewage lagoon, the construction of the new municipal office building, and the expansion of the municipal park was open, transparent and in compliance with *The Municipal Act*.

The RM's administration did not maintain complete and accurate records for its capital projects. As a result, the actual cost for each capital project was not readily available and transparent to Council and the citizens of the RM.

Transactions were not initially recorded to the appropriate general ledger account and resulted in additional external audit time and costs to the RM to correct the errors.

The RM's administration did not prepare complete capital project reports for Council information and review. As a result, Council was not provided with the information needed in order for them to fulfill their capital project monitoring responsibilities.

Had a complete analysis been prepared for the new and old office leases, Council would have seen that the lease income was insufficient to cover debenture payments each year. Additionally, there were no other funds available to cover other renovation costs, as well as the excess of new office capital costs over borrowing.

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Objectives	Conclusions
<p>To determine whether the CAO was in a conflict of interest position when he and his brothers jointly purchased a parcel of land and subsequently sold a portion of the land to the RM for the purpose of expanding the sewage lagoon.</p>	<p>The Council did not act in a timely manner to purchase the additional land for the future expansion of the sewage lagoon that would eventually be required based on the report, <i>La Broquerie: CDC Vision Development Proposal</i>.</p> <p>The CAO had a fiduciary responsibility to act in the best interests of the RM. By being part of the group that purchased land adjacent to the existing lagoon, and given that expansion of the lagoon could include a portion of this purchased land, the CAO immediately placed himself in a perceived conflict of interest position.</p> <p>Had the RM developed and implemented a conflict of interest policy for its employees, they and the CAO would have had appropriate guidance as to the implications of the CAO's land purchase. Full disclosure and knowledge of the transactions would have provided Council with necessary information to make appropriate decisions. Public transparency might have avoided speculation that resulted in the allegations that were made.</p> <p>Council's options were limited at the time that they purchased the 14 acre parcel of land to expand the sewage lagoon. The CAO was not in a position to provide them with independent advice as to their options, such as expropriation. The market value of the land was determined by negotiation because there were no other viable land options.</p>
<p>To determine whether the CAO was in a conflict of interest position when the RM constructed and paid for a road into a landlocked property owned by the CAO and his brothers.</p>	<p>The CAO and his brothers followed all procedures necessary to obtain and register a plan of subdivision within the RM and fully complied with all the conditions of the development agreement with the RM.</p> <p>The CAO was in a perceived conflict of interest position and should have removed himself from the Council meeting at which the application for the subdivision was approved and should not have been a signatory to the development agreement.</p> <p>Full disclosure and knowledge of the transactions would have provided the public with the necessary information about the terms of the agreement.</p>
<p>To determine whether the RM had expended municipal funds to provide culverts and roadways at no cost to individual property owners and/or developers.</p>	<p>The RM expended municipal funds to provide culverts and roadways at no cost to some property owners and/or developers. There were no formal policies and procedures relating to these services, and as a result, the perception of conflict of interest existed and citizens could be treated inequitably.</p>

## Objectives

To determine whether the Department has adequate processes in place to review and assess citizen complaints concerning the operations of municipalities.

## Conclusions

When the Department receives a citizen complaint they provide advice as to what options are available to the citizen to resolve their concerns, including those available in legislation such as contacting the Ombudsman. The Department may also work with the municipality to address the complaint. While this approach may resolve many matters, in situations where serious concerns remain unresolved it is not sufficient, and additional involvement by the Department is necessary.

The Department has no formal, comprehensive process in place to monitor compliance with all provisions of *The Municipal Act*. Although the Department does have a formal monitoring process in place for those provisions of *The Municipal Act* dealing with financial matters for which they have a stated role, there are other mandatory provisions of the Act that are not monitored and the Department relies solely on the supplementary audit reports provided by external auditors.

The Department relied on the Supplementary Audit Reports to provide them with assurance that the RM was operating appropriately. The external auditors indicated to us that they did not undertake additional audit procedures to prepare the Supplementary Audit Reports, but rather they designed their audit engagements to express an opinion on the financial statements and only reported other matters which came to their attention. This approach would not be sufficient to support the level of reliance that the Department placed on the Supplementary Audit Reports.

The RM had the authority to appoint the external auditors directly. The external auditors provided an engagement letter to the RM that clearly described the work that they would perform to express an opinion on the financial statements and the letter did not refer to the Supplementary Audit Report. Because the Department was not a part of this process, they did not have an opportunity to identify the gap between what they were expecting and what the auditors would provide. The requirements of the Supplementary Audit Report as described in *The Municipal Act* would, in our opinion, require significant audit work with a related increase in fees over and above the financial statement audit.

In our opinion, certain of our audit findings such as weaknesses in the internal control environment would have warranted disclosure in the external auditor's Supplementary Audit Report.

## Status of recommendations as at June 30, 2011

The March 2008 report included a total of 35 recommendations, 24 to the Rural Municipality of La Broquerie (RM), 6 to the Community Development Corporation (CDC), and 5 to the Department of Local Government (Department).

The RM indicated that as at June 30, 2011, 7 recommendations were implemented, 10 were in progress, 4 no longer required action, and they did not intend to implement 1 recommendation.

The CDC indicated that as at June 30, 2011, all 8 recommendations were in progress.

The Department indicated that as at June 30, 2011, 2 recommendations were implemented, and 3 were in progress.

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
35	9	4	1	21

### Implemented/Resolved

We recommended that:

1. The RM implement internal controls for its day-to-day transactions, including the following:
  - All staff and Councillor expense account claims should be documented on a standard expense account form
  - All expense account claims should be signed by the claimant
  - All supplier invoices should be signed by an appropriate staff member as evidence of goods and services being received
  - All expense account claims and supplier invoices should be formally approved by the CAO or a designate of Council prior to processing for payment
  - Bank reconciliations should be signed and dated by the preparer, reviewed and approved by the CAO or a designate of Council
  - The RM should utilize purchase orders or purchase requisitions. Administrative requisitions should be approved by the CAO and all public works related requisitions should be approved by the Public Works Foreman.
17. The RM develop a process to ensure that taxpayers are allowed 90 days to pay supplementary taxes before penalties are imposed in accordance with *The Municipal Act*.



## Implemented/Resolved (cont'd)

We recommended that:

18. The RM ensure that Council members file a Statement of Assets and Interests annually in accordance with *The Municipal Council Conflict of Interest Act*.
19. The Department implement appropriate changes to *The Municipal Council Conflict of Interest Act* to provide a process for the independent review of the Statements of Assets and Interests that Council members are required to file under the Act. A process should also be established to provide assurance that the requirement for disclosure and withdrawal during meetings by Council members with a conflict of interest is being appropriately met.
20. The RM properly report remuneration on T4 information slips and report all remuneration in accordance with *The Public Sector Compensation Disclosure Act*.
23. The RM require that all transactions are supported by original receipts using standard expense account forms.
24. The RM develop procedures for an appropriate review and approval of these expenses.
29. The Department ensure that all municipalities develop and implement conflict of interest policies for their senior administration and other employees.
33. Inventory records be maintained for culverts and other RM assets.

## Action No Longer Required

We recommended that:

12. The RM develop and implement a comprehensive policy that would address snow clearing of public and private properties.

*OAG Comment: The RM indicated that this service is no longer provided.*

30. The RM develop a policy with regards to the supplying of culverts and use of RM equipment for the benefit of individual property owners and/or developers.

*OAG Comment: The RM indicated that they no longer provide culverts for sale to the public or developers. Local businesses have been encouraged to maintain a supply for sale.*

### Action No Longer Required (cont'd)

We recommended that:

31. Any work done by the RM be documented on a work order/requisition form which should be approved by a designated RM employee.

*OAG Comment: The RM indicated that they do not provide custom work for private individuals or developers. Such works would have to be pre-approved by Council.*

32. The Grader Operators continue to record the hours charged to private parties on the Operators Daily Report forms which are to be supported by a work order/requisition. A copy of the work order/requisition should be provided to the Grader Operator and a copy should be maintained in a central file for control purposes.

*OAG Comment: The RM indicated that they do not provide custom work for private individuals or developers. Such works would have to be pre-approved by Council.*

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### Do Not Intend To Implement

We recommended that:

21. The RM consider entering into employment contracts with senior staff to take into account all aspects of the employment arrangement.

*OAG Comment: The RM indicated that all existing staff are subject to the RM's employment policies, and the current CAO is employed on an hourly rate with no other benefits or privileges, therefore a contract is not necessary.*

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## Work In Progress

We recommended that:

2. Council establish a Finance/Audit Committee. Responsibilities of this Committee should include the following:
  - Formal review and recommendation for approval of RM cheques and supporting documentation
  - Formal review of the CAO's expense account claims, credit card transactions, and local entertainment charges
  - Regular meetings with the CAO during the year to review financial statements, significant variances from budget to date, and projections to year end
  - Meeting with external auditors at the commencement of the annual audit to discuss audit plans and at the completion of the audit to discuss audit results.
3. The RM develop formal policies and procedures to provide guidance for the significant areas of the RM's operations as recommended throughout this report, including policies for tendering, human resources, conflict of interest, and travel and entertainment.
4. The RM collect the amounts outstanding related to the paving agreements. If payments are not received in a reasonable period of time the RM should take further action as authorized under the terms of the paving agreements.
5. The development of the conflict of interest policy as recommended in Section 5.1 include the requirement that individual Council members and staff who enter into transactions with the RM inform Council.
6. The CDC Board ensure that all loan application files and loan documentation clearly indicate whether each loan is under the CWLP or the CDC's own loan program.
7. The CDC Board formally approve all loans.
8. The CDC Board add procedures to its loan application and approval process to ensure that all loan applications meet the terms and conditions of the CWLP and the CDC By-Laws.
9. The CDC Board collect the amounts outstanding as a result of the three interest free loans and formally assign responsibility for monitoring outstanding loans.

Work In Progress (cont'd)

We recommended that:

10. CDC Board Chairman ensure that each member of the Board receives a copy of the CWLP terms and conditions and a copy of the CDC By-Laws, including the "*Conflict of Interest Policy and Guidelines*."
11. CDC Board Chairman request the Department to provide training to the CDC Board and RM staff concerning their roles and responsibilities over the CWLP.
13. The RM review its annual budgeting procedures in order to produce a budget that better reflects the actual annual costs of the RM.
14. In the event the RM anticipates an operating deficit, the Minister be advised as soon as possible in accordance with *The Municipal Act*.
15. The Department implement procedures to better review and analyze the financial information provided to them by municipalities, to clearly identify reasons for the deficits and the appropriate corrective action to be taken by the municipality.
16. The RM ensure that an LUD service plan is prepared by the LUD Committee and approved by Council each year to facilitate delivery of efficient and effective service to the citizens of the LUD.
22. The RM develop policies for travel and local meal and entertainment expenses that provide guidelines describing "allowable expenses" such as a meal per diem with amounts for breakfast, lunch and dinner, and when or/if alcohol and other entertainment expenses are acceptable.
25. The RM revise their indemnity by-law to appropriately reflect their intended policies on what constitutes a special meeting and what portion of their compensation should be non-taxable.
26. The RM ensure that its records are maintained in an appropriate manner.
27. The RM prepare capital project reports that include all project costs and budgets on an ongoing basis and present the information to Council throughout the term of the project.
28. The RM develop and implement a formal conflict of interest policy for their senior administration and other employees.

Work In Progress (cont'd)

We recommended that:

34. The Department implement appropriate processes to monitor serious citizen complaints and to follow-up compliance with *The Municipal Act* by municipalities.
  35. The Department, in consultation with municipalities and external auditors, review the supplementary audit report requirements to ensure that appropriate information and assurances about the administration and operations of municipalities are provided.
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## 17. Assessment Services Branch

### Summary from November 2009 audit report

Property tax revenues are the largest source of funding for local governments in Manitoba. In the Department of Intergovernmental Affairs, *2004 Statistical Information for Municipalities in the Province of Manitoba*, it was reported that property tax revenues for the 198 municipalities excluding Winnipeg totalled \$256 million from properties with an assessed value of \$10.6 billion. Fair assessments play a key role in ensuring the equitable distribution of the property taxes within each municipality, school division and the Province.

Our audit examined assessments conducted in four municipalities as part of the 2006 general reassessment. Our audit focused on whether there were well defined assessment processes, whether they were consistently followed and necessary information was available to make reasonable assessments or judgements of residential, farm and commercial property values.

We concluded the following:

- The property assessments we examined were conducted in a manner consistent with Branch methodology
- For income generating commercial properties, there is a need for the Branch to increase its efforts to obtain business income and expense information from a greater proportion of property owners
- The Branch should strengthen its risk based field inspection process to ensure all properties are inspected within a reasonable cycle. Inspections are important because they help ensure that property assessments are based on an accurate and complete inventory of existing property characteristics
- Conclusions on the validity of a sale and on the property characteristics at time of sale are frequently based on assessor judgment only. As such, in many cases, the vendor or purchaser are not contacted, nor is the interior of the property inspected or the interior characteristics otherwise confirmed.
- The Branch needs to ensure that values recorded in its construction cost system reasonably reflect actual construction costs for the reference year
- In 2005 a quality control review function was introduced but only with respect to the sales verification process. The risk conditions faced by the Branch support the need for a comprehensive quality control review function
- The Branch needs to demonstrate that its assessment services are effective. To this end, the Branch has recently begun to explore the use of ratio studies.

## Status of recommendations as at June 30, 2011

Total Recommendations	Recommendations Considered Cleared			Work In Progress
	Implemented/ Resolved	Action No Longer Required	Do Not Intend To Implement	
9	3			6

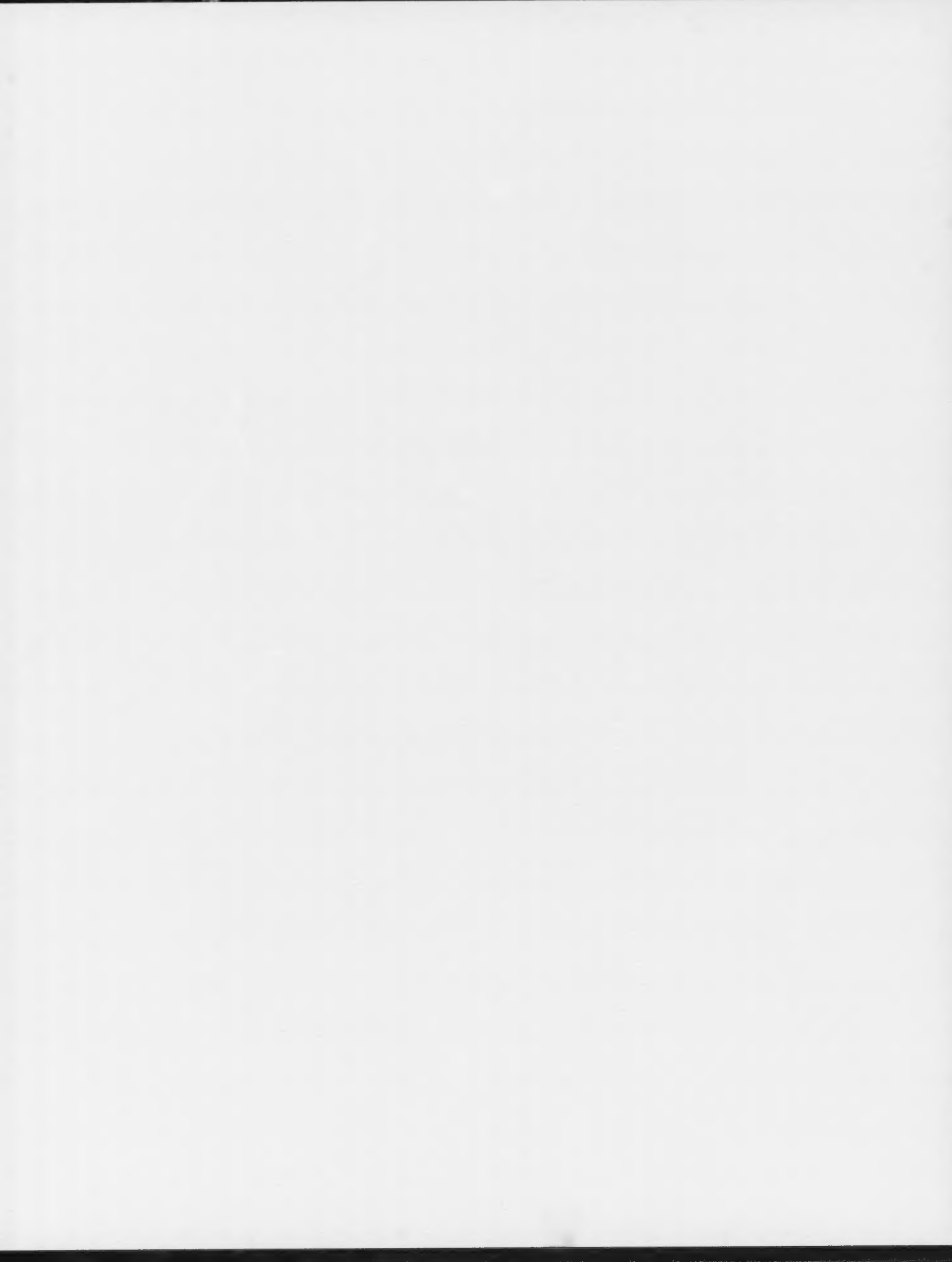
### Implemented/Resolved

We recommended that:

3. The Branch prioritize the completion of reviews for older sales.
7. The Branch use MAVAS or an alternative mechanism to better track support for component costs.
8. The Branch develop as part of its quality assurance efforts, a review function, independent of district operations, to perform quality control reviews over all aspects of assessment services.

### Work In Progress

1. The Branch strengthen its information request practices in order to obtain a greater proportion of requested annual income and expense statements. Strengthened Branch practices could include the use of available fines.
2. The Branch strengthen its risk based inspection approach by developing reasonable inspection cycles for each type of property.
4. The Branch define the circumstances under which assessor judgment alone is sufficient to assess the validity of a sale and require documentation of the rationale in MAVAS.
5. The Branch establish guidelines as to which procedures should be used to verify residential property characteristics at the time of sale.
6. The Branch develop, document and implement a systematic approach for researching and updating component costs and that this be conducted in time for the next general reassessment.
9. The Branch develop and implement a plan on how best to maximize the use of ratio studies to evaluate assessment performance.



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